

VERBATIM ¹RECORD OF TRIAL ²

(and accompanying papers)

of

MANNING, Bradley E.

(Name: Last, First, Middle Initial)

[REDACTED]

(Social Security Number)

PFC/E-3

(Rank)

Headquarters and

Headquarters Company,

United States Army Garrison

(Unit/Command Name)

U.S. Army

(Branch of Service)

Fort Myer, VA 22211

(Station or Ship)

By

GENERALCOURT-MARTIAL

Convened by

Commander

(Title of Convening Authority)

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

(Unit/Command of Convening Authority)

Tried at

Fort Meade, MD

(Place or Places of Trial)

on

see below

(Date or Dates of Trial)

Date or Dates of Trial:

23 February 2012, 15-16 March 2012, 24-26 April 2012, 6-8 June 2012, 25 June 2012, 16-19 July 2012, 28-30 August 2012, 2 October 2012, 12 October 2012, 17-18 October 2012, 7-8 November 2012, 27 November - 2 December 2012, 5-7 December 2012, 10-11 December 2012, 8-9 January 2013, 16 January 2013, 26 February - 1 March 2013, 8 March 2013, 10 April 2013, 7-8 May 2013, 21 May 2013, 3-5 June 2013, 10-12 June 2013, 17-18 June 2013, 25-28 June 2013, 1-2 July 2013, 8-10 July 2013, 15 July 2013, 18-19 July 2013, 25-26 July 2013, 28 July - 2 August 2013, 5-9 August 2013, 12-14 August 2013, 16 August 2013, and 19-21 August 2013.

¹ Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)

² See inside back cover for instructions as to preparation and arrangement.

1 A. No, ma'am.

2 Q. Despite the personnel shortages that your shop had, you got
3 your mission accomplished?

4 A. Yes, ma'am.

5 Q. And the Soldiers knew, the junior analysts knew, if they
6 had questions or concerns, they could come to you?

7 A. They could come to whomever they felt would provide them
8 assistance. So me included.

9 Q. They knew somebody would be available for them?

10 A. Yes, ma'am. I mean, Mr. Ehresman was approachable, Captain
11 Fields, Lieutenant Gaab, myself, Captain Martin, certainly Captain
12 Lim as well.

13 Q. And Captain Lim, he was a good S-2?

14 A. Yes, ma'am, he was very good.

15 Q. His knowledge of tactical S-2 was very good as well?

16 A. I would say it was probably the best I have seen as a
17 brigade S-2, as far as his tactical knowledge for tactical S-2, yes,
18 ma'am.

19 Q. You had no reservations about his ability to accomplish a
20 mission?

21 A. No, I did not.

22 ATC[CPT OVERGAARD]: No further questions, thank you.

23 MJ: Redirect?

1 CDC[MR. COOMBS]: No, Your Honor.

2 **EXAMINATION BY THE COURT-MARTIAL**

3 **Questions by the military judge:**

4 Q. Mr. Adkins, you testified that PFC Manning tried to recall
5 -- or there is something in one of the MFRs about PFC Manning trying
6 to recall the email that he sent you. What happened?

7 A. When I spoke with PFC Manning, when he gave me or when he
8 sent the email, the first thing he told me was, he had tried to
9 recall the email. Evidently, you know, he was unsuccessful. He
10 stated at least now, I mean, I don't know if he did, but he stated
11 that he attempted to recall the email after he sent it.

12 Q. You also testified that both you and PFC Manning were at a
13 meeting of the minds that the Army is not good for everyone. I
14 assume you mean it probably wasn't a good place for PFC Manning. Is
15 that correct?

16 A. I felt that probably words to that effect. I felt that the
17 Army, that he could last out his deployment and his enlistment and
18 successfully leave the Army. I didn't necessarily feel that the Army
19 was a long-term option for PFC Manning. And I believe I told him
20 that.

21 Q. Do you know when the end of his enlistment was up?

22 A. I don't. I don't recall if it was a 4-year enlistment or 4
23 years and 23 weeks or 39 weeks or what have you. It was probably

1 shortly after we redeployed or relative shortly after we redeployed.
2 Probably within the year because he arrived in '08, which means he
3 probably entered in '07. I don't recall exactly.

4 Q. In the MFRs that you had up there, you testified a little
5 bit earlier about this, but you seemed to have familiarity with
6 psychiatric terms, perhaps greater than the average person. Is there
7 a background for that?

8 A. Some people I have known in the past had suffered
9 psychiatric problems, so I was familiar with some of the terms.
10 Again, I mean obviously I'm not an expert, but I was hoping that some
11 of my layman's observations would -- but I was familiar with the some
12 of the terms based on some people I had known in the past who had
13 psychological or behavior issues.

14 MJ: Any follow up based on that?

15 ATC[CPT OVERGAARD]: No, ma'am.

16 CDC[MR. COOMBS]: No, Your Honor.

17 **[The witness was temporarily excused, duly warned, and withdrew from**
18 **the courtroom.]**

19 MJ: All right. I see we are all looking at the clock. Do you
20 want to confer to propose the way ahead for today.

21 CDC[MR. COOMBS]: I believe, given the witnesses I have, we
22 could still come back at 1430 and be fine with finishing witnesses
23 plus Ms. Smith today.

1 MJ: Any objection?

2 TC[MAJ FEIN]: Ma'am, if we are going to have Ms. Smith, we are
3 going to ask more time now for lunch to prepare since we were
4 planning on that tomorrow or we could do it right before Ms. Smith
5 testifies. It doesn't necessarily matter to the Government.

6 MJ: Well, do you want to make it 1500 -- Well, if we make it
7 1500, will that give you enough time?

8 TC[MAJ FEIN]: Oh, yes, ma'am.

9 MJ: Any objection?

10 CDC[MR. COOMBS]: No objection, Your Honor.

11 MJ: All right. Then court is in recess until 1500, 3 o'clock.

12 [The court-martial recessed at 1304, 13 August 2013.]

13 [END OF PAGE]

1 [The court-martial was called to order at 1511, 13 August 2013.]

2 MJ: Court is called to order. Captain Overgaard, please
3 account for the parties.

4 ATC[CPT OVERGAARD]: All parties present when the court last
5 recessed are again present in court, with the exception of Major Fein
6 and Captain Morrow; and Captain von Elten is present.

7 MJ: All right. Thank you. Is there anything we need to
8 address before we continue with the next witness?

9 CDC[MR. COOMBS]: No, Your Honor.

10 ATC[CPT OVERGAARD]: No, ma'am.

11 MJ: Please call your next witness.

12 CDC[MR. COOMBS]: Yes, Your Honor. The defense calls Sergeant
13 Daniel Padgett.

14 **SERGEANT DANIEL PADGETT, U.S. Army, was called as a witness for the**
15 **defense, was sworn and testified as follows:**

16 **DIRECT EXAMINATION**

17 **Questions by the civilian defense counsel [MR. COOMBS]:**

18 Q. Sergeant Padgett, I want to ask you a few questions about
19 your deployment to Iraq in 2009.

20 A. Okay.

21 Q. What month did you deploy to Iraq?

22 A. October of 2009, sir.

23 Q. What unit did you deploy with?

1 A. Bravo Company, 2nd BSTB, 2nd Brigade, 10th Mountain
2 Division.

3 Q. When you -- When were you appointed as the NCOIC of the
4 night shift for the S-2 Section?

5 A. Shortly after we got into Iraq. Approximately November.

6 Q. Still of 2009?

7 A. Yes, sir.

8 Q. And what did you do as the NCOIC of the night shift?

9 A. Just worked with the other Soldiers that were on the night
10 shift ensuring their tasks were being complete. If anything
11 significant came up, make sure it's get reported to the proper
12 channels.

13 Q. Prior to assuming the duties of the NCOIC of the night
14 shift, did you receive any initial counseling as to the expectations
15 of your position?

16 A. No, sir.

17 Q. Do you know why not?

18 A. No, I do not.

19 Q. And at that time I know you're an E5 now, were you an E4 at
20 that time?

21 A. Yes, sir.

22 Q. At that point, had you been to any leadership schools in
23 order to assume the position of the NCOIC?

1 A. Not at the time, sir.

2 Q. How many analysts did you supervisor?

3 A. Two.

4 Q. Who were they?

5 A. Specialist Manning and at the time Specialist DeFrank.

6 Q. And were you as the NCOIC responsible for counseling

7 Specialist Manning and Specialist DeFrank?

8 A. I wasn't told that that was part of my job duties, but when

9 the need arose I would ask for permission to do so from their chain

10 of command.

11 Q. Who did you ask permission from in order to counsel

12 Specialist Manning or Specialist DeFrank?

13 A. At the time it was Sergeant Balonek, now Chief Balonek.

14 Q. And based upon your perception, why were you in the

15 position of having to ask to counsel these two Soldiers?

16 A. Well coming from the MI Company I knew that the Soldiers in

17 the brigade chain had their own specific chain of command and I

18 wanted to go to them first before I took any kind of administrative

19 actions since I wasn't actually in the brigade chain of command.

20 Q. Did you feel that you should be the person counseling the

21 Soldiers or did you feel somebody else should?

22 A. I don't really know. I knew they should be made aware of

23 it and I wanted to ask them and make sure it was okay, since the

1 discrepancies that I had happened on my shift, since I was the senior
2 person in charge.

3 Q. If weren't the individual to counsel Specialist Manning or
4 Specialist DeFrank, who would have been?

5 A. Specialist DeFrank I don't know, but at the time I believe
6 it was Sergeant Balonek who was his squad leader.

7 Q. Based on our your perception, how would you describe the
8 leadership provided within the S-2 Section?

9 A. Say again, sir.

10 Q. Based upon your perception, I know you were kind of from a
11 different -- you're from the BSB, correct?

12 A. Yes.

13 Q. So based upon your perception when you came to work for the
14 S-2 Section, how would you describe the leadership within that
15 section?

16 A. As my first big encounter with their leadership and their
17 chain of command my exposure to them before that had been very
18 limited. I knew who everybody was and what their roles were, but it
19 seemed like a majority of their chain of command were on the day
20 shift. It was a little heavier than the night shift where it was the
21 three of us.

22 Q. When you say the that in the night shift it was just the
23 three of us, who were you talking about?

1 A. Myself and Specialist Manning and Specialist DeFrank.
2 Q. Now, I want to ask you about your supervision of PFC
3 Manning, then Specialist Manning. Okay?
4 A. [Nodding head indicating an affirmative response.]
5 Q. Just go ahead and say yes to that.
6 A. Yes, sir.
7 Q. Were you ever considered his direct supervisor for
8 administrative actions?
9 A. Not that I'm aware of.
10 Q. And do you know why not?
11 A. No, I do not.
12 Q. Did you ever request authorization to actually handle a
13 counseling section of PFC Manning?
14 A. Yes, I did.
15 Q. When did you do that?
16 A. In December of 2009, sir.
17 Q. Who did you get that authority from?
18 A. Sergeant Balonek, sir.
19 Q. Why did you go to Staff Sergeant Balonek?
20 A. Because he was -- at the time I believe he was Manning's
21 supervisor or squad leader.
22 Q. Was Staff Sergeant Balonek your supervisor?
23 A. No.

1 Q. Who was your supervisor?

2 A. My supervisor within the S-2 would have been whichever
3 officer was in charge was who I would directly report to or if for
4 administrative purposes I would default to my company chain of
5 command.

6 Q. So you didn't have an NCO within your supervisor chain
7 within the S-2 Section?

8 A. I did at the time. It was Master Sergeant Adkins.

9 Q. Who ultimately gave permission to counsel PFC Manning?

10 A. Sergeant Balonek.

11 Q. Now, I want to ask you about one of those counseling
12 sessions. Okay?

13 A. Yes, sir.

14 Q. You say you counseled him in December of 2009?

15 A. Yes, sir.

16 Q. And why were you counseling him at that point?

17 A. He had been late to shift change and I wanted to ensure
18 that he knew the importance of being to work on time and ensure that
19 it didn't happen again.

20 Q. Did you counsel him on multiple occasions or two different
21 occasions in December?

22 A. Yes, sir.

1 Q. Let's talk about the second occasion. How -- Do you
2 remember roughly the time frame when you did your first counseling
3 and you did your second counseling?

4 A. The first one was I believe it was the 18th, December 18th,
5 right around there, and the second one was about a day afterwards the
6 following shift.

7 Q. And during the second counseling session did anything
8 happen during that session that was unusual?

9 A. Yes, sir.

10 Q. What happened?

11 A. During the counseling session Specialist Manning's demeanor
12 changed during that counseling session. He stood up, flipped the
13 table over, knocked everything off of it and became irate.

14 Q. What were you saying what was happening immediately before
15 then Specialist Manning flipped the table?

16 A. We were just going through the counseling statement line-
17 by-line and I was informing him of the importance of why we have to
18 be on time to work and what's expected of us as far as when we have
19 to be there and what our duties are and what can happen if you
20 continue to be late.

21 Q. And where were you sitting in relation to the where
22 Specialist Manning was sitting?

1 A. We were sitting across from each other at a large table in
2 our conference room.

3 Q. And after Specialist Manning flipped the table, what
4 happened?

5 A. He was getting kind of irate, so I tried to calm him down.
6 Our placement in the room, there was a weapons rack in there. I
7 didn't see him go for it or even look at it, but I didn't know what
8 was going on and I didn't know what his intentions were. So I wanted
9 to take every chance I could to defuse any possible -- another
10 incident happening. So I made sure that he was no longer between me
11 and the weapons rack. So I stood between him and the weapons rack,
12 and shortly after that is when Chief Ehresman came in and basically
13 took control of Manning.

14 Q. And when you say took control of Manning, did he restrain -
15 ---

16 A. Yes, he did.

17 Q. ---- PFC Manning? Did anyone else come in the room at that
18 point?

19 A. I don't remember.

20 Q. After Chief Ehresman restrained PFC Manning, what happened?

21 A. Once we were able to get him to calm down, we cleaned up
22 the mess that was made in the conference room and we finished the --
23 finished the counseling session.

1 Q. After this incident did you report to Master Sergeant

2 Adkins what happened?

3 A. He had found out through just the chain of events between

4 myself and Chief Ehresman after everything had happened.

5 Q. Did Master Sergeant Adkins ever come to you to find out

6 from your perspective what happened?

7 A. I believe he asked me what happened, but I don't remember

8 the details of what we talked about.

9 Q. What about Major Clausen, did he ever come to you to figure

10 out what happened from your perspective?

11 A. I don't remember if I talked to him after that moment.

12 Q. What happened to PFC Manning after this incident?

13 A. I heard that he had referral for behavioral health, and as

14 far as anything that happened administratively, I wasn't made aware

15 of any of that.

16 Q. After what you saw between yourself and PFC Manning, did

17 you believe he should remain in the T-SCIF?

18 A. I don't know, sir. I mean, you know, when he was still

19 there he still did his job; but it's not my call to determine who

20 gets to stay in there and who gets to be -- or who has to be removed.

21 Q. Did you ever counsel PFC Manning for disrespect considering

22 the fact that you were the NCOIC at that point?

23 A. No, I did not.

1 Q. Did you know if PFC Manning ever received any UCMJ action
2 based upon the conduct?
3 A. No, I do not.
4 Q. Do you know if a report of survey was ever done for damage
5 of any property?
6 A. I wasn't made aware of anywhere of anything that was taken.
7 CDC[MR. COOMBS]: Thank you. No further questions.
8 WIT: Yes, sir.
9 MJ: Government?
10 ATC[CPT OVERGAARD]: Yes, ma'am.

11

12

CROSS-EXAMINATION

13 **Questions by the assistant trial counsel [CPT OVERGAARD]:**

14 Q. Sergeant Padgett, you said that you were put in charge of
15 the night shift?
16 A. Yes, ma'am.
17 Q. That was because you were the senior specialist in the
18 group?
19 A. Yes, ma'am.
20 Q. And you had actually -- You had been a Marine for 4 years
21 before you came over to the Army?
22 A. Yes, ma'am.
23 Q. And you came in in 2008 as a specialist?

1 A. Yes, ma'am.

2 Q. And did -- Did Master Sergeant Adkins tell you that your
3 responsibilities were to make sure the night shift got their work
4 done?

5 A. Yes, ma'am.

6 Q. Did he also say to make sure anything else that needs to
7 get done gets done?

8 A. Yes, ma'am.

9 Q. What did that mean? What did you do to oversee the night
10 shift?

11 A. We would periodically receive taskings from the day shift,
12 our day shift counterparts and anything that had to be worked on or
13 developed, or gathered on any further we would work on that and then
14 if anything significant came up during our shift make sure it was
15 reported to the proper personnel.

16 Q. And you had a couple of punctuality problems with the
17 accused?

18 A. Yes, ma'am.

19 Q. So you had to counsel him?

20 A. Yes, ma'am.

21 Q. And you received the permission to do so?

22 A. I did.

1 Q. You said when you were finished or you said that after PFC
2 Manning flipped the table you were actually able to go back and
3 finish your counseling?

4 A. Yes, we did. It was quite a while afterwards, but we
5 eventually did finish it.

6 Q. Did his chain of command then deal with it from there on
7 out after you finished the counseling?

8 A. As far as I know. I wasn't brought in on anything that
9 happened after that.

10 Q. Do you know if he went to mental health?

11 A. I believe he did, yes, ma'am.

12 Q. Did you ever walk him over to mental health?

13 A. A couple of times, but shortly after that I flew back to
14 Baghdad for another mission that I was working on.

15 Q. And you knew the bolt was taken from his weapon after that
16 as well?

17 A. I had heard.

18 Q. Before -- You said that you didn't have leadership training
19 before you deployed but did you have training on how to do your job
20 as an analyst?

21 A. Yes, ma'am.

22 Q. And you went to AIT and JRTC and the DCGS-A training?

23 A. Yes, ma'am.

1 Q. And then in theater you had some additional?
2 A. Yes, ma'am.
3 Q. And you knew also when you were in theater you could go to
4 anyone in the S-2 chain of command?
5 A. Yes, ma'am.
6 Q. With questions?
7 A. Yes.
8 Q. And in particular Master Sergeant Adkins?
9 A. Yes.
10 Q. And in your opinion was the S-2 shop run well?
11 A. I didn't have anything to compare it to. It was my first
12 deployment, but I think everyone in there was doing the best that
13 they could.
14 Q. With what they had?
15 A. Yes, ma'am.
16 Q. And you achieved your mission?
17 A. Yes, ma'am.
18 Q. And how was Captain Lim as the S-2? Did he run the shop
19 well?
20 A. From what I could see he did.
21 Q. He never went ----
22 A. That was my first time working in the S-2 shop. So I
23 didn't have anything to compare it to.

1 Q. And everyone knew what their job was?
2 A. Yes, ma'am.
3 Q. And they -- And the positions were filled?
4 A. As far as I know, ma'am, yes, sir.
5 Q. There was a lot of change in the personnel during the time
6 you were there. Is that correct?
7 A. Yes, there was.
8 Q. So that was somewhat confusing, but you knew who your chain
9 of command was?
10 A. Yes. Initially there was a lot of changes in personnel,
11 but I always knew who I could go to if something were to come up.
12 Q. If you -- If while you were deployed, if you had a -- if
13 you had an issue would you feel comfortable going to mental health?
14 A. Yes, I would.
15 Q. And that was as a junior enlisted Soldier in 2009 and 2010?
16 A. Yes, ma'am.
17 ATC[CPT OVERGAARD]: Thank you. No further questions.
18 MJ: Redirect?
19 CDC[MR. COOMBS]: No, Your Honor.
20 MJ: Sergeant Padgett, I just have one question.
21 **EXAMINATION BY THE COURT-MARTIAL**
22 **Questions by the military judge:**

1 Q. When the table was flipped, were the computers on the
2 table?

3 A. Yes, ma'am.

4 Q. I've got more than one. Did do you know if they were
5 functional after you put them back together?

6 A. I don't know, ma'am. I didn't attempt to use them
7 afterwards.

8 MJ: All right. Any follow up based on that?

9 CDC[MR. COOMBS]: No, Your Honor.

10 ATC[CPT OVERGAARD]: No, ma'am.

11 [The witness was temporarily excused, duly warned, and withdrew from
12 the courtroom.]

13 CDC[MR. COOMBS]: The defense calls Sergeant Lorena DeFrank.
14 SERGEANT LORENA DEFRANK, U.S. Army, was called as a witness for the
15 defense, was sworn, and testified as follows:

16 DIRECT EXAMINATION

17 Questions by the civilian defense counsel [MR. COOMBS]:

18 Q. Sergeant DeFrank, your name has been used often as
19 Specialist Cooley. Were you formally, last name Cooley?

20 A. Yes, sir.

21 Q. I want to start off by asking you a few questions about
22 your interaction with PFC Manning. Okay?

23 A. Yes, sir.

1 Q. When did you first meet PFC Manning?
2 A. August of 2008.
3 Q. And when, at that point, why were you meeting him in August
4 of 2008?
5 A. That's when he came to the unit, sir.
6 Q. Were you at the unit prior to him?
7 A. Yes, sir.
8 Q. And prior to the deployment did you ever give PFC Manning
9 any rides to and from work?
10 A. Yes, sir.
11 Q. Why was that?
12 A. He needed a ride either to work or down to Syracuse.
13 Q. That's my second question. Did you ever give him a ride to
14 Syracuse or to the bus station?
15 A. Yes, sir.
16 Q. Why did you do that?
17 A. Out of kindness, helping another Soldier out, and he didn't
18 have a car and I did.
19 Q. Was there a time where you and PFC Manning met up in
20 Washington, D.C.?
21 A. In the area sir, yes.
22 Q. And do you remember when that was?
23 A. It was about April of 2009 I want to say.

1 Q. While in D.C. did you and PFC Manning hang out together?
2 A. He showed me around the area where he grew up.
3 Q. Did he take you to the mall where he worked?
4 A. Yes, sir.
5 Q. Did he also take to you Starbucks, showed you where he
6 worked?
7 A. Yes, sir.
8 Q. And you indicated he showed you where he was living or had
9 lived?
10 A. Yes, sir. It was, I believe, his aunt's house.
11 Q. And during the time that you spent with him did he seem to
12 want to talk to you?
13 A. A little bit, yes, sir.
14 Q. And during those times did you discuss politics?
15 A. To an extent. I'm not very much into politics myself so.
16 I wasn't very ----
17 Q. Was PFC Manning -- I'm sorry, go ahead.
18 A. I wasn't very talkative on the subject myself, but yes,
19 yes, he did discuss it a little bit.
20 Q. From your perspective, was PFC Manning a politically active
21 person?
22 A. Yes, sir.
23 Q. Why would you say that?

1 A. He just talked about it a lot and he seemed very interested
2 in the subject.

3 Q. Now, I want to ask you a few questions about other
4 individuals in the unit and PFC Manning. Okay?

5 A. Yes, sir.

6 Q. Did PFC Manning have any friends in the unit, from your
7 perspective?

8 A. There was a few, sir, yes.

9 Q. And who were they?

10 A. There was other junior enlisted Soldiers that he would talk
11 to from time to time. I don't know exactly who he spoke to most or
12 anything, but I know Schwab and Walsh, and there's a few others, but
13 I can't remember exact names.

14 Q. From your perspective, how was PFC Manning treated by
15 others in the unit?

16 A. Just as any other Soldier. We all ----

17 Q. Did you -- Go ahead, I'm sorry.

18 A. We all tried to make each other feel like part of a family
19 in the unit within the shop.

20 Q. Was he ever picked on by other people?

21 A. Not any more than anybody else that I saw.

22 Q. Do you ever recall saying he was treated like the runt of
23 the shop?

1 A. Yes, sir.

2 Q. Why would you say that?

3 A. I mean, as far as stature he was the smallest in the shop

4 and, you know, we all joked around a lot. So like I said not more

5 than anybody else.

6 Q. Did anyone ever pick on him because he was gay?

7 A. Not to my recollection.

8 Q. Were you aware that he was gay?

9 A. Not until several months after he'd been to the unit.

10 Q. How did you find out?

11 A. He told me.

12 Q. Did your husband ever ask you to stop speaking with PFC

13 Manning?

14 A. Yes, sir.

15 Q. When was that?

16 A. It was probably after the trip to D.C.

17 Q. Do you know why your husband asked you to stop speaking

18 with PFC Manning?

19 A. He didn't feel comfortable with him.

20 Q. Was there a reason?

21 A. Honestly, I don't remember.

22 Q. Is your husband also military?

23 A. He's National Guard.

1 Q. Do you recall ever telling me that your husband didn't
2 agree with PFC Manning's lifestyle and orientation?

3 A. Not that I remember.

4 Q. You don't recall telling me that?

5 A. I don't remember if that's what he told me. I haven't
6 spoken to him in a while.

7 Q. Do you recall telling me that?

8 A. Roger, sir.

9 Q. And do you recall telling me that your husband didn't want
10 you to be friends with PFC Manning?

11 A. Yes, sir.

12 Q. And after that point did your friendship with PFC Manning
13 start to deteriorate?

14 A. I wouldn't say deteriorate. It just became more
15 professional. I talked to him at work and possibly gave him rides
16 back to the barracks after work, but didn't really go out of my way
17 to be social.

18 Q. Now, I want to ask you a few questions about working with
19 PFC Manning during the deployment. Okay?

20 A. Yes, sir.

21 Q. At the beginning of the deployment did you work on the
22 night shift with PFC Manning?

23 A. Yes, sir.

1 Q. And based upon working on the same shift were you able to
2 view his duty performance?

3 A. Yes, sir.

4 Q. And from your perspective was PFC Manning a proficient
5 analyst?

6 A. Yes, sir.

7 Q. Why would you say that?

8 A. He was good at the analysis and accomplished the tasks that
9 were assigned.

10 Q. Did you ever describe him as being like a robot?

11 A. To an extent. He's very much into the computers and, you
12 know, working with the data that we had.

13 Q. Did you ever use that phrase?

14 A. I believe so.

15 Q. And other than I guess the answer you just gave, was there
16 a reason why you describe him as kind of like a robot?

17 A. Just because he was, like I said, very knowledgeable with
18 the computers, knowledgeable with the systems that we used and it was
19 very able to methodically turn out consistent products.

20 Q. Now, did you have an enlisted supervisor during your shift?

21 A. Yes, sir.

22 Q. And did that supervisor change during the deployment?

1 A. It changed several times, but we also changed shifts during
2 the deployment.

3 Q. Who was your first enlisted supervisor?

4 A. I believe it was Specialist Padgett at the time.

5 Q. What about your second?

6 A. When I switched to day shift it was Sergeant Mitchell.

7 Q. On the night shift before Padgett did Specialist Showman
8 ever supervisor you?

9 A. For a time.

10 Q. While on the night shift, did you ever have an actual
11 noncommissioned officer supervisor you?

12 A. No, sir.

13 Q. Do you know why not?

14 A. Didn't have the manning to support it. We were undermanned
15 on the night shift and the deployment in general, so we did what we
16 could with what we had.

17 Q. So am I correct in saying that on the night shift you only
18 had E4 and below. Is that correct?

19 A. We also had an officer overseeing us, but, yes.

20 Q. Who was the officer?

21 A. Captain Keay.

22 Q. Now, with regards to your NCOIC, that was Master Sergeant
23 Adkins?

1 A. Overall, yes.

2 Q. Did you ever state that you believed that Master Sergeant

3 Adkins minimized a lot of things with PFC Manning?

4 A. He dealt with a lot of things in the shop. I believe that

5 might have been the exact terminology I used, but we dealt with

6 things in the shop before going up to higher levels to try to take

7 care of things at the lowest level.

8 Q. Do you recall saying that you thought PFC Manning should

9 have gotten help before the deployment?

10 A. That was based on information I found out after deployment,

11 but if he needed it, he could have gotten it.

12 Q. Are you familiar with AR 380-67?

13 A. Yes.

14 Q. How are you familiar with that regulation?

15 A. With my job as personnel security.

16 Q. Is that where you're working in now?

17 A. Roger, I run an S-2 shop.

18 Q. How long have worked in personnel security?

19 A. On and off over the last 2 years.

20 Q. Does your current duties include processing DEROGs?

21 A. Yes, sir.

1 Q. I'd like to talk to you about that for a moment. Okay? Do
2 Soldiers and leaders have a responsibility to report derogatory
3 information for individuals who have security clearances?

4 A. Yes, sir.

5 Q. Why is that?

6 A. Because it's their responsibility to maintain control over
7 the classified information that their Soldiers might interact with.

8 Q. From your perspective as a personnel security
9 representative, is whether somebody is suitable for having a security
10 clearance an ongoing evaluation?

11 A. Yes.

12 Q. And can you explain why you believe that?

13 A. Because circumstances could change at any time and if
14 something comes up that might disqualify that person from having a
15 security clearance they should be processed accordingly.

16 Q. What type of conduct by a Soldier would raise a security
17 concern regarding whether or not they should maintain their security
18 clearance, just in general?

19 A. In general, I've seen DUIs, positive urinalysis, financial
20 issues, domestic disturbances involving alcohol, things of those
21 natures.

22 Q. Have you ever see a DEROG filed for a traffic offense.

23 A. If it was involving alcohol, yes.

1 Q. Okay. If a Soldier exhibits behavior that causes others to
2 question his or her judgment, could that result in a DEROG?

3 A. Yes.

4 Q. And why?

5 A. Because if that person is deemed incapable [sic] of, you
6 know, protecting classified information then they shouldn't be
7 allowed access to it.

8 Q And from your perspective as a personnel security
9 representative, have you seen a DEROG ever filed for something for
10 acts of violence?

11 A. Yes.

12 Q. And I know you gave the one example of spousal abuse. Are
13 there any other types of examples?

14 A. Yes. If there's a bar fight in the town and they get
15 arrested a DEROG would be initiated for that Soldier.

16 Q. And based upon your training how long does it take to
17 process -- file and process a DEROG?

18 A. Thirty days from the date of the incident the initial DEROG
19 is submitted and 90 days afterwards there is either a follow up or
20 final, depending on whether the case is closed.

21 Q. If the chain of command fills out a DEROG and files it
22 immediately, how long does it take at that point to suspend clearance
23 if the command makes that decision, do you know?

1 A. It depends on how long it takes the paperwork to get up to,
2 you know, the agency. We go through SID, at Fort Drum. It just
3 depends on how that installation processes their paperwork. But it
4 could be a couple of weeks to a few months.

5 Q. And with regards to the idea of filing a DEROG, if a DEROG
6 is filed, does that mean a Soldier is going to lose their security
7 clearance?

8 A. Not necessarily.

9 Q. Can you explain why not?

10 A. The commander provides a recommendation on whether or not
11 the Soldier should have their clearance maintained or revoked
12 depending on how they perceive that Soldier. Usually they go by the
13 whole Soldier concept and they'll make a judgment. If it's just a
14 Soldier is in the wrong place at the wrong time and messed up but
15 overall he's a good Soldier then more than likely they'll provide
16 corrective training and counseling and help him rehabilitate himself;
17 but if it's a Soldier that's shown patterns of misconduct then
18 they'll more than likely move to revoke or suspend his clearance.

19 Q. Now, I want to ask you -- Actually before I move on. With
20 regards to the DEROGs, what is the idea of having those filed with
21 the clearance facility? What's the purpose of having DEROGs filed
22 there?

1 A. Not every Soldier has a clearance. So if the Soldier in
2 question doesn't have a clearance at the time, if they go in the
3 future to apply for a clearance, then that file would be in their
4 record and that will weigh in on the Office of Personnel Management
5 their decision to grant that person a clearance.

6 Q. So am I correct in saying that it's basically like a
7 paperwork trail?

8 A. Yes, sir.

9 Q. Now, I want to ask you some more questions about PFC
10 Manning from your perspective. Okay?

11 A. Yes, sir.

12 Q. And to focus you in I want to talk about the time period
13 when PFC Manning returned from mid-tour leave. Okay?

14 A. Yes, sir.

15 Q. Did you notice any the increase in PFC Manning's stress
16 level when he returned from mid-tour leave?

17 A. Yes, sir.

18 Q. What did you notice?

19 A. He seemed more agitated.

20 Q. What did you base that upon?

21 A. His behavior, sir.

22 Q. Did you ever try to talk to him about what was going on?

1 A. At the time I had personal issues of my own going on. I
2 was preoccupied with those and I didn't really have a chance to.

3 Q. During this time did PFC Manning ever ask you to look at an
4 Apache video?

5 A. He may have.

6 Q. Do you recall telling me that one time where he pulled you
7 aside to look at the Apache video?

8 A. I think so. Yes.

9 Q. I'm sorry?

10 A. I believe so.

11 Q. And during that time do you recall how PFC Manning seemed
12 to react to seeing the video?

13 A. I don't recall.

14 Q. You don't recall? Do you recall telling me that he seemed
15 to be troubled by what he was looking at?

16 A. Yes, sir.

17 Q. Do you recall that?

18 A. Yes.

19 Q. Did you ever talk to him about that video?

20 A. I don't think so.

21 Q. During the April 2010 time frame, did you ever have an
22 occasion to hear PFC Manning's conversation over Skype?

23 A. Yes. He was in the room next to me.

1 MJ: I'm sorry I can't hear you?

2 WIT: Yes, he was in the room next to me, ma'am.

3 Q. And how do you know he was having a conversation?

4 A. I could hear him talking and it seemed to be a two-way

5 conversation. I don't remember if I heard anything coming from the

6 other end, but it did seem to be a two-way conversation.

7 Q. And based upon what you could hear, did you hear PFC

8 Manning say anything about feeling like he had a burden?

9 A. I remember saying him something like that, yes.

10 Q. And what did he say, do you recall?

11 A. I don't remember exactly what he said.

12 Q. Would anything help refresh your memory?

13 A. Possibly if I saw the sworn statements.

14 CDC[MR. COOMBS]: I'm showing you what's been marked as

15 Defense Exhibit UUU for Identification. If you would just take a

16 look at that and go ahead and thumb through each of the pages. You

17 don't need to read it, just thumb through each of the pages and then

18 look up at me.

19 **[There was a brief pause while the witness reviewed the exhibit.]**

20 Q. Do you recognize that?

21 A. Yes, sir.

22 Q. What is that?

1 A. It's a sworn statement I gave I believe it was right after
2 PFC Manning was arrested.

3 Q. What I'd like you to do is to turn to Page 2 and just read
4 silently to yourself if and I'll go ahead and point exactly where.
5 Just go ahead and read from here over to Page 3 and then when you're
6 done with that paragraph look up at me.

7 **[There was a brief pause while the witness reviewed the exhibit.]**

8 CDC[MR. COOMBS]: I'm retrieving Defense Exhibit UUU for
9 Identification from the witness.

10 Q. Does that refresh your memory?

11 A. Yes, sir.

12 Q. So did you hear him say anything about feeling like he had
13 a burden that he felt that he had?

14 A. Yes, sir.

15 Q. What did he say?

16 A. He said he was concerned about public opinion.

17 Q. Did he indicate what he was concerned about as far as
18 public opinion?

19 A. I don't recall.

20 Q. Did you hear him express concern about public opinion in
21 the U.S. about -- excuse me, about public opinion in the United
22 States?

23 A. I believe so, sir.

1 Q And did he indicate that it was about something that was
2 going on at that time?

3 A. Yes, sir.

4 Q. And did you ever talk to him about that conversation?

5 A. I don't recall, sir. I don't think I did.

6 Q. And after that conversation, did you notice any change in
7 PFC Manning's demeanor?

8 A. As I said, he became more agitated, more nervous.

9 Q. And even after seeing that he was more nervous or agitated,
10 did you ever speak to him about what was bothering him?

11 A. Not that I recall.

12 CDC[MR. COOMBS]: No further questions.

13 MJ: Cross-examination?

14 ATC[CPT OVERGAARD]: Yes, ma'am.

15 **CROSS-EXAMINATION**

16 **Questions by the assistant trial counsel [CPT OVERGAARD]:**

17 Q. Sergeant DeFrank, I just want to talk a little bit first
18 about the DEROGs again that you spoke about.

19 A. Yes, ma'am.

20 Q. When you said before that you filed the DEROGs, what does
21 that -- does that mean that you just -- you filled out the report of
22 unfavorable information and you gave it to the commander?

1 A. What I do at my unit is I'll prefill out the DEROG with the
2 Soldier's information like about their clearance and the
3 investigation on them, their background investigation. Then I'll
4 send it to the commander to get their recommendation and it will go
5 up to the battalion commander for signature and then it goes up to
6 brigade for processing.

7 Q. Okay. So, when you see -- when you get any sort of
8 misconduct they might see in the blotter or might get from the first
9 sergeant or wherever else the information comes from, you document
10 that on the DEROG which is also called the report for unfavorable
11 information for security?

12 A. Yes, ma'am.

13 Q. And then that goes to the company commander initially and
14 then he can either recommend that access is suspended, not suspended,
15 or those are his only two options?

16 A. No. One is access not suspended. One is collateral access
17 suspended. Another one is SCI access suspended which that block
18 would be checked according to what level clearance that Soldier has
19 and what the commander wants to do with them.

20 Q. Okay. And the commander can also elect access not
21 suspended?

22 A. Yes.

1 Q. So if he -- If the commander recommends access not
2 suspended, what happens to the DEROG at that point?

3 A. It will still get filed.

4 Q. Okay. So, they always get filed?

5 A. Yes, ma'am.

6 Q. So if a DEROG is filed it doesn't mean necessarily access
7 is suspended?

8 A. Right.

9 Q. You said during your deployment you changed shifts and you
10 changed supervisors a few times?

11 A. Yes, ma'am.

12 Q. Did you always know who your first-line supervisor was?

13 A. Yes.

14 Q. And did you always -- Before deployment did you have a
15 clear chain of command?

16 A. As far as I remember, yes.

17 Q. Did you know your mission while you were in theater?

18 A. Yes.

19 Q. Was Captain Lim your S-2?

20 A. Yes, ma'am.

21 Q. And was he a good leader in your opinion?

22 A. Yes, ma'am.

23 Q. Why did you say that?

1 A. He was there for the Soldiers and he was very clear asking
2 for what he wanted from the Soldiers from the shop in general.

3 Q. Was he a mentor?

4 A. Yes.

5 Q. And how about Master Sergeant Adkins, was he a good leader?

6 A. Yes, ma'am.

7 Q. Why do you say that?

8 A. He was also there for the Soldiers and took care of them as
9 best as he could.

10 Q. Was someone always available in the S-2 shop while you were
11 deployed there to go to with questions?

12 A. Yes.

13 Q. Or with issues?

14 A. Yes.

15 Q. And if you had any mental health concerns during
16 deployment, did you feel comfortable going to mental health?

17 A. Yes, ma'am.

18 Q. And that was even as a junior enlisted Soldier?

19 A. Yes, ma'am.

20 Q. Now, you said before that in your statement you said if
21 Manning -- if PFC Manning had issues he should have been able to get
22 help before deployment?

23 A. Yes.

1 Q. But you didn't know whether or not he had any issues?
2 A. I didn't find out about them until afterwards.
3 Q. Okay. But you were just saying if he did have issues he
4 should have been able to get help?
5 A. Yes, ma'am.
6 ATC[CPT OVERGAARD]: No further questions. Thank you.
7 CDC[MR. COOMBS]: No redirect, Your Honor.
8 MJ: I don't think I have anything either.
9 **[The witness was temporarily excused, duly warned, and withdrew from**
10 **the courtroom.]**
11 CDC[MR. COOMBS]: Your Honor, the defense calls Sergeant Sheri
12 Walsh.
13 **SERGEANT SHERI WALSH, U.S. Army, was called as a witness for the**
14 **defense, was sworn, and testified as follows:**
15 **DIRECT EXAMINATION**
16 **Questions by the civilian defense counsel [MR. COOMBS]:**
17 Q. Sergeant Walsh, I want to start off by talking about your
18 interaction with PFC Manning. Okay?
19 A. Okay.
20 Q. When was the first time that you met him?
21 A. It was in Kuwait, sir.
22 Q. In what year?
23 A. 2009, sir.

1 Q. So you did not know him prior to the deployment?

2 A. That is correct, sir.

3 Q. And how did you first meet him in Kuwait?

4 A. We was standing out where we gather -- or where the company

5 gathers and it was Lieutenant Fields then, which is now Captain

6 Fields introduced me to him as one of her Soldiers.

7 Q. Did you have an occasion to have a conversation with PFC

8 Manning after that?

9 A. Numerous times, sir.

10 Q. And can you explain in general when these were?

11 A. Just in general, sir. In Kuwait I would see him, he would

12 see me, hi, how is it going. When we deployed to Iraq, sir, it was -

13 - I would see him passing. He lived on the same row with our CHU,

14 sir. I would see him passing. It was always hi, how are you. It

15 got -- Because I saw him all the time, sir, it got to be more I would

16 see him by himself. So a bunch of us would go to eat, sir, and if I

17 saw him by himself we always asked him if he would like to join us.

18 Things of that nature. As time went on it progressed into more

19 conversations between him and I.

20 Q. We'll get to those.

21 A. Okay, sir.

22 Q. Did you ever see him hanging out with others early on in

23 the deployment?

1 A. Negative, sir.

2 Q. Where would you normally see him?

3 A. Usually walking to and from the PX, sir, to and from the

4 chow hall. If I was over, we called it the building of the TOC where

5 the SCIF was, sir, I would see him over there. Usually outside smoke

6 pit, sir, on the same row because we lived on the same row, just in

7 passing, sir.

8 Q. From your perspective, were others nice to him?

9 A. Some of us were; some of them either ignored him or they

10 weren't always very nice to him, sir; but a lot of us were. We had

11 nothing against him at all, sir.

12 Q. Did you have a battle buddy in the unit?

13 A. Not one in particular, sir. I had numerous ones, sir.

14 There was not one that was just pinpoint down to one, sir. So I was

15 always with the battle buddy, sir.

16 Q. What's the general purpose of being with a battle buddy?

17 A. For safeguard, to make sure that we watch out for each

18 other, to make sure that we were safe, never to be alone by

19 ourselves, sir.

20 Q. Did you ever see PFC Manning with his battle buddy?

21 A. Negative, sir.

22 Q. Did you ever witness an incident of somebody being mean to

23 PFC Manning?

1 A. I have, sir.

2 Q. Can you explain?

3 A. It was kind of late at night. I don't remember the time.
4 I know a bunch of us were probably heading to midnight CHU. I don't
5 remember exactly where we were going, sir. A group of people came to
6 get me from my CHU. We were walking down the CHU. Mine was the very
7 first door in the row of CHUs. His was about midway down, sir, and I
8 don't remember who they were; but there were two individuals in front
9 of a bunch of us and he had to open the door, and like he was getting
10 ready to leave, sir, and I don't know which ones just pushed the door
11 with his fist into him. It made a loud thud. I went over to see if
12 he was okay. You could tell that he was not injured like where he
13 needed medical attention, dazed and confused, and it hurt, sir. My -
14 - it happened to be my NCO lived across from Manning and she came out
15 because it was very loud. One of two of the male battle buddies that
16 were with us went to the chase down the other two. We asked him if
17 he was okay. He really didn't say much, but then he came around and
18 said, yes, I'm okay, which you could tell he was confused, dazed,
19 hurt. I know the next day me and my NCO talked about it and tried to
20 encourage him to like turn the people in, but he refused. He seemed
21 to not want to cause any trouble. That was the end of it, sir.

22 Q. Based upon your perception, would it have been an accident
23 that Soldiers ----

1 A. It was not an accident.

2 Q. ---- pushed the door into PFC Manning's face?

3 A. Negative, sir.

4 Q. Why do you say that?

5 A. Because they were walking. He opened up the door. He had

6 not even stepped out of the door. He was coming out the door, but I

7 remember it being the fist. They took the fist and as the door

8 opened they took their fist very hard and slammed the door.

9 Q. And you indicated there came a time where your

10 conversations with PFC Manning became more extensive?

11 A. Yes, sir.

12 Q. When was that?

13 A. I don't recall exactly when, sir.

14 Q. Do you recall both of you going on R and R leave at the

15 same time?

16 A. We did, sir.

17 Q. Why were you going on R and R leave at that point?

18 A. Why he was going I do not know, sir, but that was like the

19 first round that was going. Someone from the legal group wanted to

20 go, sir, so I got told them I was going at that time, sir. We just

21 happened to hit about the same time, sir.

22 Q. Did you have an opportunity to speak with PFC Manning on

23 the way I guess back from R and R leave?

1 A. We spoke on the way as we were coming in country, sir, and
2 as well as when we were coming back into the theater, sir.

3 Q. And on the flight back how did PFC Manning seem?

4 A. On the flight back, I don't -- we were not on the same
5 flight. I know once we got in theater, sir -- I met up with him. I
6 don't exactly remember where I met up, I think I was probably at the
7 PX, or getting food, sir, and I think he came up and I asked him how
8 his R and R went and he stated it didn't go too good, that he got
9 snowed in where he was going. He got snowed in, but for the most
10 part he was glad to be home, but, you know, I don't think it was bad.
11 I mean, we didn't get into all of the details. I know where he went.
12 He had told me where he went, but we didn't get into all of the
13 details. He just told me he had gotten snowed it, and it was
14 February, there was a lot of snow at that time, sir.

15 Q. At what point did PFC Manning ever get into trouble with an
16 Article 15?

17 A. I don't recall exactly when, sir. It was probably
18 March/April, sir, that's when.

19 Q. Would you be aware of the Article 15 because of your duty
20 position at that point at that time?

21 A. I would, sir.

22 Q. Where did you work?

23 A. I worked in the brigade legal, sir.

1 Q. And I believe at my time it was a 71 Delta?

2 A. 27 Delta, yes, sir.

3 Q. 27 Delta, okay.

4 A. Correct.

5 Q. And is that your MOS?

6 A. It is, sir.

7 Q. Did PFC Manning ever talk to you about his Article 15?

8 A. I'm the one who originally -- initially wrote up the

9 Article 15, sir, and gave it to my first sergeant when it was done.

10 Whatever happened with punishment, of course, we knew that he got a

11 reduction in rank; but they moved him from the SCIF and into where I

12 worked, sir, which was my building where I worked, and he worked a

13 couple of doors down from me, sir. He never really talked about the

14 Article 15 to me much. I know people with me asked him about it. I

15 know a lot of people were high fiving him because they weren't too

16 fond of Showman, which is the reason he got the Article 15; but that

17 specific occasion I mean, we talked in general, but we really didn't

18 talk about that Article 15 in itself, sir.

19 Q. Did there come a time where you ever had anymore personal

20 conversations with PFC Manning about him?

21 A. We did, sir.

22 Q. And did he share with you the fact that he was gay?

23 A. He did, sir.

1 Q. Did he also share with you some of his relationship
2 problems?

3 A. He didn't really ----

4 MJ: Yes.

5 ATC[CPT von ELTEN]: Hearsay, ma'am.

6 CDC[MR. COOMBS]: I'm not asking for a specific fact, ma'am,
7 just whether or not he shared relationship problems with her. So I'm
8 not asking to convey a particular conversation.

9 MJ: All right. I'll let it go for now. Go ahead.

10 Q. Did he express with you -- Did he share with you any
11 relationship problems that he was having?

12 A. That just him, and if I could use the name, that him and
13 Tyler were having problems, sir.

14 MJ: All right. That's going into hearsay.

15 Q. What I wanted to get was just that he shared relationship
16 problems with you.

17 A. Not specific problems, sir.

18 Q. So, to avoid hearsay, I'm not really concerned a about what
19 he told, you just whether or not he ever shared relationship problems
20 with you?

21 A. That he was having problems with his relationship, yes,
22 sir.

23 Q. So he actually expressed relationship problems to you?

1 MJ: Yes.

2 ATC[CPT von ELTEN]: Leading.

3 MJ: I think clarifying at that point. Overruled.

4 A. That he was having problems in his relationship is pretty
5 much what he said, sir.

6 Q. Based upon your interactions and conversations with PFC
7 Manning, did you form an opinion of him as a person?

8 A. I really don't judge people. I got along with him very
9 well. I don't think him and I ever had cross words. I know when we
10 went on R and R we were like the junior enlisted and I was the only
11 female and we kind of looked out for each other, but I had never
12 known him to have any issues at all, sir.

13 CDC[MR. COOMBS]: Thank you, Sergeant Walsh.

14 WIT: Thank you, sir.

15 MJ: Cross-examination?

16 ATC[CPT von ELTEN]: Yes, ma'am.

17 **CROSS-EXAMINATION**

18 **Questions by the assistant trial counsel [CPT von Elten]:**

19 Q. Sergeant Walsh?

20 A. Yes, sir.

21 Q. What's your unit?

22 A. HHC, ATC Fort Jackson, South, Carolina, sir.

1 Q. When you were deployed with PFC Manning, did you reach out
2 to him?

3 A. I tried to, sir, yes, sir.

4 Q. Did you walk with him?

5 A. If he would let me, yes, sir.

6 Q. Did you invite him to meals?

7 A. I did, sir.

8 Q. Did you greet him?

9 A. I did, sir.

10 Q. Did you offer him coffee?

11 A. I did, sir.

12 Q. Did you smoke with him?

13 A. I did, sir.

14 ATC[CPT von ELTEN]: Thank you. Nothing further.

15 CDC[MR. COOMBS]: No redirect.

16 **[The witness was temporarily excused, duly warned, and withdrew from**
17 **the courtroom.]**

18 ATC[CPT OVERGAARD]: Ma'am, could we have a 15-minute recess
19 before the next witness is called.

20 MJ: Any objection?

21 CDC[MR. COOMBS]: No objection, Your Honor.

22 MJ: All right. The Court is in recess until 20 minutes after
23 1600 or 4:00 o'clock.

1 [The court-martial recessed at 1605, 13 August 2013.]

2 [The court-martial was called to order at 1623, 13 August 2013.]

3 MJ: Court is called to order. Major Fein, please account for
4 the parties.

5 TC[MAJ FEIN]: Yes, ma'am. All parties in the court before the
6 last recess are again present with the following the addition of
7 myself.

8 MJ: Before we proceed I believe the government -- Well, the
9 Court held a very brief R.C.M. 802 conference with counsel for about
10 2 minutes. The government advised me they want to put some things on
11 the record.

12 TC[MAJ FEIN] Yes, ma'am. The government completed its
13 classification review of the transcripts for Mr. Lewis' closing
14 testimony. The classification review to redact the declassified
15 information for the public access for the 1 July and 2 July sessions
16 although it's two groupings of this entire testimony will be
17 available following this session, Your Honor. Three copies for the
18 general public, three copies for the media, and it's already been
19 pushed up the Department of the Army's website, FOIA website for the
20 general public to have access. That's the first issue.

21 The second, Your Honor, is that the defense and government
22 have met to talk about the three damage assessments that the defense
23 gave 505(h) notice, M.R.E. 505(h) noticed for to use during the

1 sentencing case. That's for the Department of State damage
2 assessment, the National Counterintelligence Executive damage
3 assessment and the DIA or IRTF damage assessment. The defense has
4 now given notice that they do not intend to use those three damage
5 assessment, and two of them the government did prepare summaries for
6 as previously arranged or agreed upon by both parties for the NCIS
7 and the DIA IRTF summaries. Those were completed, but the defense
8 does not intend to use either of those three documents.

9 MJ: Mr. Coombs, is that correct?

10 CDC[MR. COOMBS]: That is correct, Your Honor.

11 MJ: Because the defense had earlier asked me to take judicial
12 notice of them. So for right now the defense doesn't want me to
13 consider them at all; is that right?

14 CDC[MR. COOMBS]: That is correct, Your Honor. The defense
15 calls Ms. Lillian Smith.

16 **LILLIAN SMITH, civilian, was called as a witness for the defense, was**
17 **sworn, and testified as follows:**

18 **DIRECT EXAMINATION**

19 **Questions by the civilian defense counsel [MR. COOMBS]:**

20 Q. Ms. Smith, you are an Information Assurance Specialist with
21 the U.S. Army Information Technology Agency?

22 A That's correct.

1 Q. And you were assigned as an Information Assurance subject
2 matter expert for the defense in this case?

3 A. Yes, I was.

4 Q. When were you assigned to act as the defense subject matter
5 expert in information assurance?

6 A. I was actually appointed in January 2011.

7 Q. And were you specifically requested by the defense?

8 A. No. What actually happened was you asked the government to
9 identify an information assurance specialist or expert to be a part
10 of the team.

11 Q. Now, as part of the defense team, did I request you to look
12 at certain documents?

13 A. Yes, you did.

14 Q. And did you review the initial CID investigation in this
15 case?

16 A. Yes, I did.

17 Q. Did you review the Secretary of the Army's 15-6
18 investigation in this case?

19 A. Yes, I did.

20 Q. And did you also sit through the entire Article 32
21 investigation?

22 A. Yes, I did.

1 Q. Ms. Smith, are you prepared today to tell us about your
2 review of the initial CID investigation, the Secretary Army's 15-6
3 investigation, as well the information that you learned from the
4 Article 32 investigation?

5 A. Yes, I am.

6 Q. Let's begin by getting to know you a little bit better,
7 some of your background. You are the Chief of your division within
8 the Enterprise Management Directorate for the U.S. Army Information
9 Technology Agency?

10 MJ: Yes.

11 TC[MAJ FEIN]: Ma'am, if the defense intends to offer Ms. Smith
12 as an expert in information assurance the United States is not going
13 to contest. We didn't have a chance to tell the defense prior to
14 this.

15 MJ: In that case just truncate the foundation a little bit
16 since the government did when the situation was reversed.

17 CDC[MR. COOMBS]: Not a problem.

18 MJ: Okay.

19 CDC[MR. COOMBS]: In fact, mine is truncated already.

20 Q. And I know that was a mouthful, but your position is Chief
21 of your division within the Enterprise Management Directorate for the
22 U.S. Army Information Technology Agency?

23 A. That's correct.

1 Q. And in that position you're responsible for maintaining a
2 thorough and complete knowledge of applicable DoD, U.S. Army, and
3 federal information assurance regulations and requirements?

4 A. That's correct.

5 Q. How long have you been in that position?

6 A. I've been in that position since April of 2012.

7 Q. And prior to that position you served as the Deputy
8 Director for the same agency?

9 A. Deputy Director for the Enterprise Information Mission and
10 Assurance Directorate which is within the Information Technology
11 Agency. I was the Deputy.

12 Q. I just didn't want to say all of that.

13 A. Okay. Just different directorate.

14 Q. In that position you supported the mission of providing
15 essentially manage information assurance services for tenants of the
16 Pentagon and the National Capital Region Office?

17 A. Yes, that's correct, with the primary focusing on
18 Headquarters, Department of the Army systems.

19 Q. And you are also responsible for physical security, network
20 security monitoring, and security training and awareness?

21 A. Yes, I was.

22 Q. And how long did you serve in that position?

1 A. In that position from September of 2008 until March of
2 2011.

3 Q. And we can go down some of the years, but I'm going to
4 abbreviate this slightly. Were you ever in the military?

5 A. Yes, I was.

6 Q. And how long were you in the military?

7 A. Twenty-four years.

8 Q. What was the highest rank that you held?

9 A. I retired as a lieutenant colonel.

10 CDC[MR. COOMBS]: Your Honor, at this time we tender Ms. Smith
11 as an information assurance expert.

12 MJ: All right. And government you are stipulating to that?

13 TC[MAJ FEIN]: Yes, ma'am.

14 MJ: So accepted.

15 Q. Ms. Smith, let's turn to what you did in this case, why you
16 did it, and how you did it?

17 A. Okay.

18 Q. First, can you tell the Court what you did in this case?

19 A. Basically what I did was to look for any information
20 assurance concerns in the CID investigation, the Secretary of the
21 Army 15-6 investigation, and also listening to the Article 32
22 hearing.

1 Q. And why did you review the initial CID investigation in
2 this case?

3 A. I reviewed the initial CID investigation to see if any
4 specific information assurance violations or failures had occurred
5 that enabled Private Manning to do what he did.

6 Q. What information in general did the CID investigation
7 provide to you?

8 A. Basically reading the CID investigation I noted that there
9 were several instances where Soldiers had voiced their concern over
10 Private Manning's erratic behavior before and during the deployment,
11 and also it provided other documented conduct prior to and during the
12 deployment that should have raised red flags.

13 Q. Now, why did you review the Secretary of Army's 15-6
14 investigation?

15 A. Again, to see if there were any specific information
16 assurance failures or violations on the part of the unit that pretty
17 much placed Private Manning in a position to do what he did.

18 Q. What information in general did the 15-6 investigation
19 provide to you?

20 A. It pretty much showed additional documented conduct and it
21 also uncovered information assurance issues that were not
22 appropriately acted upon by Master Sergeant Adkins, and it also
23 identified conduct during Manning's AIT period that should have

1 caught someone's attention from the standpoint of maybe he should be
2 reclassified.

3 Q. Now, why did you sit through the Article 32 hearing?

4 A. So that I could hear firsthand of any information assurance
5 practices within the S-2.

6 Q. And what information in general did the Article 32
7 investigation provide to you?

8 A. The Article -- well the 15-6 -- Article 32 pretty much
9 revealed that there weren't any information assurance practices and
10 that things weren't being done in accordance with the regulation as
11 far as how to handled removable media. No one in the unit seemed to
12 understand what a DEROG was or the fact that one should have been
13 initiated on Manning basically.

14 Q. And based upon the information that you reviewed, did you
15 reach any conclusions concerning the information assurance practices
16 of the 2nd Brigade, 10th Mountain Division?

17 A. Yes, I did.

18 Q. What were your conclusions?

19 A. Basically that it was an undisciplined environment when it
20 came to being in compliance with information assurance practices.
21 That's basically the main thing.

1 Q. And how many -- In general, how many information assurance
2 red flags did you notice from the material that was made available to
3 you?

4 A. I would say as many as 15.

5 Q. And what would you have expected to have happened based
6 upon the red flags that you noted?

7 A. I would have expected the unit to take some action to
8 discipline those that were not following the regulation to ensure
9 that information assurance practices were being enforced.

10 Q. And, in general, can you tell the Court why, from an
11 information assurance standpoint, why do we prohibit unauthorized
12 media like music, movies, and games on a SIPRNET computer?

13 A. One of the basic reasons is the fact that they could
14 introduce embedded malicious code into our network which eventually
15 could result in the network going down.

16 Q. And why do we not allow unmarked CDs in a SCIF?

17 A. One of the primary reasons is you don't know exactly what's
18 on the CD and if it's in the SCIF it should be properly marked and
19 labeled as to what the classification of the CD is.

20 Q. How are CDs supposed to be accounted for within a SCIF?

21 A. Well, there should be 100 percent accountability. The
22 information assurance manager should ensure that there is some
23 procedure that is established to ensure that all of the CDs within

1 the SCIF are accounted for, even simple as if an analyst has a
2 product to do he or she would report to the OIC or the NCOIC to
3 obtain a CD, and once the product is completed then it's signed back
4 into the OIC or the NCOIC.

5 Q. Shouldn't we just be able to trust those that work within a
6 SCIF not to take information outside of the SCIF?

7 A. We should, but that's always the adage of trust but verify,
8 and when we do that then we ensure, not totally, but it could
9 preclude classified information from being compromised.

10 Q. Now, from your position, are you familiar with Army
11 Regulation 380-67?

12 A. Yes.

13 Q. What is that regulation?

14 A. It's the Army's Personnel Security Regulation that handles
15 security clearances.

16 Q. And within that regulation does it discuss when a DEROG
17 should be initiated against a Soldier?

18 A. Yes, it does.

19 Q. Who's responsible for initiating a DEROG?

20 A. Well, anyone can report information that would call into
21 question a person's suitability to maintain or keep a security
22 clearance, but ultimately it's the commander's responsibility to
23 initiate the DEROG.

1 Q. If a DEROG is filed against a Soldier does that mean that
2 that Soldier will lose their clearance?

3 A. Not necessarily. The command could decide to revoke,
4 suspend it, or to not even take any action, and primarily it's used
5 so that we can keep track of any type of conduct down the road to
6 determine whether or not an individual is still suitable to maintain
7 a clearance or to even have access to classified information.

8 Q. And based upon what you've reviewed in this case do you
9 believe a DEROG should have been filed against PFC Manning?

10 A. Yes, I do.

11 Q. And when?

12 A. Personally I think as early as his time during AIT. There
13 was several instances before deployment. During deployment there was
14 several opportunities that a DEROG could have been initiated.

15 Q. And, again, I guess if a DEROG is initiated, what would
16 that have accomplished if the command had done that say in December
17 of 2009?

18 A. It could have revoked his clearance or it could have
19 suspended it until the investigation of the situation had been
20 completed.

21 CDC[MR. COOMBS]: Thank you. No further questions.

22 MJ: Cross-examination?

23 TC[MAJ FEIN]: May I have a moment, Your Honor?

1 MJ: Yes.

2 CROSS-EXAMINATION

3 Questions by the trial counsel [MAJ FEIN]:

4 Q. I'm sorry, ma'am. One moment, please. Ma'am, when you
5 retired from the United States Army you held command positions prior
6 to your retirement?

7 A. Yes, I did.

8 Q. You had senior NCO's you relied upon?

9 A. Most definitely.

10 Q. You had Soldiers that had minor misconduct?

11 A. Yes, I did.

12 Q. You had Soldiers that had serious misconduct?

13 A. That's correct.

14 Q. You had Soldiers that have minor behavioral issues like
15 temper tantrums?

16 A. That's correct.

17 Q. Did all of those Soldiers although they had the opportunity
18 to have a DEROG, were all of them DEROG'd for their acts?

19 A. No. Based on the circumstances behind the conduct.

20 Q. So when you were a commander, ma'am, and then as an
21 officer, at least on active duty, you assessed every situation as it
22 presented to you at the time, correct?

23 A. Yes.

1 Q. And when you reviewed the CID investigation, the
2 comprehensive one, the SEC Army 15-6 from a three-star general and
3 the Article 32 and even sitting in the courtroom many times during
4 this trial you had the benefit of hindsight when you were making
5 these assessments, correct?

6 A. Yes.

7 Q. And you weren't necessarily there at the time at AIT when
8 PFC Manning had minor misconduct?

9 A. No, I wasn't.

10 Q. And you're aware he had corrective training at that time to
11 fix his minor misconduct?

12 A. Yes, I did.

13 Q. And then when he had showed up to Fort Drum you're aware
14 that he sought mental health and received mental health assistance?

15 A. Yes.

16 Q. And when he deployed to Iraq the same thing happened, he
17 had minor misconduct and was counseled and had corrective action
18 taken?

19 A. Yes.

20 Q. And you're aware that the command decided at that time his
21 leadership decided that they would handle that at the S-2 office
22 because they were trying to rehab the Soldier?

23 A. Yes.

1 Q. Ma'am, within your current expertise now as a civilian you
2 focus most on information assurance and I think it was physical
3 security for Headquarters, DA and the Pentagon, correct?

4 A. Yes.

5 Q. So it's not necessarily focused solely although the same
6 regulation on deployed Soldiers in combat?

7 A. That's correct.

8 Q. Although it is the same regulation, correct?

9 A. It's the same regulation and the same processes that we use
10 in garrison for the protection of classified information. It's the
11 same that we would use in a tactical environment.

12 Q. Yes, ma'am. And the Reg does give the commander some
13 discretion depending on their environment?

14 A. That's correct.

15 Q. And that same discretion is inherent in 380-67, the DEROG
16 regulation?

17 A. Yes.

18 Q. In fact, most of the regulations, at least that have come
19 up in this case that you've witnessed in the investigations give
20 commanders much latitude?

21 A. There's some latitude, but I'm always from the perspective
22 that it's better to error on the side of the security.

1 Q. And clearly in this case you think they should have because
2 we wouldn't be here today?

3 A. I do.

4 Q. Would you agree that a determined Soldier could get around
5 most of the information assurance rules and policies?

6 A. Yes, I do.

7 Q. Why?

8 A. You can have the best procedures in place, but if there is
9 an individual determined to do something, I do believe that he or she
10 will find a way.

11 Q. Why is it, ma'am, that we don't have regulations,
12 procedures, or policies in place that could prevent any and all of
13 these acts?

14 A. I really can't answer that.

15 Q. Okay.

16 A. But I'm hoping that the working group that has been put
17 together to look at this whole situation will come up with some kind
18 of regulation that will do exactly that.

19 Q. Ma'am, have you in your current capacity and previously
20 worked on SIPRNET computers?

21 A. Have I what?

22 Q. Have you worked on SIPRNET computers?

23 A. Sure.

1 Q. And is there a -- to the best of your knowledge, through
2 information assurance and network enterprises, is there a way, a
3 systematic way, to prevent Soldiers from limiting their access
4 individually? Is there a way to do that?

5 A. Only if it's role based.

6 Q. What do you mean by, "role based"?

7 A. Role based, based upon what their responsibilities and
8 duties are when it comes to utilizing or having access to the
9 computer.

10 Q. Now, ma'am, if it's role based and they have it on their
11 screen, does that still prevent them from printing?

12 A. No.

13 Q. Does that prevent them from sharing that information with
14 someone else even though they have access to it on their computer?

15 A. No.

16 Q. If they have access to e-mail on SIPRNET, does that prevent
17 them from e-mailing it to another individual on SIPRNET?

18 A. No.

19 Q. So is there even a role based security that could be put in
20 place that doesn't rely on the individual?

21 A. Not to my knowledge.

22 Q. We heard during the merits case, you were in here for, that
23 Mr. Weaver's testified that no matter how, under AR 25-2, it takes

1 individual responsibility to implement ultimate security. Do you
2 agree with that, ma'am?

3 A. Would you repeat that again?

4 Q. Sure. Mr. Weaver testified, ma'am, on the merits, in the
5 guilt phase, that it takes personal responsibility for an individual
6 to protect information through information assurance and that's why
7 the regulation doesn't cover every possibility. Do you agree with
8 that?

9 A. I agree with that.

10 Q. Why?

11 A. Because ultimately it is the individual's responsibility to
12 protect the information that's on the computer.

13 Q. Now, ma'am, going back to on 2/10 Mountain from your review
14 of the CID investigation, the Sec Army 15-6 and the Article 32, in
15 your testimony during this court martial you mentioned 15 red flags
16 that you noted, without even going into the individual red flags. Is
17 it your assessment that if all of those flags had been I guess
18 mitigated that that could have prevented PFC Manning from taking
19 classified information?

20 A. As I said before, it probably would not have prevented it,
21 but at least it would have lessened the possibility for him to do
22 what he did.

1 Q. But if he was that determined Soldier, would he still be
2 able to do it?

3 A. If it he was that determined, I'm sure he would have. And
4 just as I stated, it would have just decreased or minimized the
5 capability for him to do that.

6 Q. Yes, ma'am. Now, speaking of -- earlier you just testified
7 about CDs and other items being marked in the SCIF and every SCIF
8 should have marked CDs. Do you remember actually any testimony in
9 this court-martial that says any individual burning CDs didn't mark
10 them?

11 A. No.

12 Q. Okay. So assuming that even occurred for this purpose,
13 even marking CDs would, that have prevented PFC Manning from walking
14 out the door with the CD?

15 A. No.

16 Q. And having, I think you testified, 100 percent
17 accountability in the SCIF what would that require?

18 A. It would require that every CD that's within the SCIF
19 there's an inventory that's done, and each time that a Soldier is in
20 need of a CD you report to the OIC or NCOIC, whoever's managing the
21 process, and receive a CD, and once it's completed then return the CD
22 to log it back in.

1 Q. And what prevents any determined Soldier in that interim
2 from taking that CD and doing something else with it?

3 A. Nothing.

4 Q. What if they're on the night shift with just two Soldiers,
5 what would prevent them from running out of the room and coming back
6 10 minutes later with the same CD in their hand?

7 A. Nothing. If you don't have any controls in place, nothing.

8 Q. Well, what if you did have controls in place, ma'am, could
9 the determined Soldier be able to do that?

10 A. A determined Soldier can still do whatever he or she
11 intends to.

12 Q. In reference to your testimony about DEROGs, understanding
13 DEROGs aren't necessarily directly within the information assurance,
14 but you have personal experience, correct?

15 A. Yes.

16 Q. And in your personal experience you testified a moment ago
17 that it seemed like the purpose is to determine the suitability to
18 keep a security clearance, correct?

19 A. Keep track of any concerns or any information that calls
20 into question the individual's suitability.

21 Q. And from your experience, ma'am, a commander may -- or an
22 office director would make a decision on whether to suspend, take no
23 action, or revoke, and that would go into a system?

1 A. Correct.

2 Q. Is the commander or the office director the ultimate
3 deciding official on whether a security clearance then would be
4 revoked?

5 A. No.

6 Q. Who is?

7 A. The CCF.

8 Q. And without even trying to spell the acronym, who is CCF?
9 Who are they? What are they?

10 A. Oh, wow.

11 Q. Are they the adjudication officials?

12 A. It's the -- It's the Central Clearance Facility.

13 Q. Okay. Thank you. And those are the ----

14 A. I had just to think for a minute.

15 Q. ---- I'm sorry, go ahead.

16 A. I had to just think for a minute.

17 Q. Sure.

18 A. But those are the ones that actually do the adjudication.

19 Q. So, once you put a DEROG in the system, it's up to them
20 ultimately on what occurs to the person's security clearance?

21 A. Well, that's based upon any type of periodic update in the
22 situation that is provided to CCF.

1 Q. But just because a commander doesn't want or decides to
2 change their mind, it's not up to the commander at that point?

3 A. No, it isn't.

4 Q. So CCF could pull a person's clearance without --
5 regardless what the commander thinks?

6 A. Yes.

7 TC[MAJ FEIN]: One moment, please, ma'am. Your Honor, no
8 further questions.

9 MJ: Redirect?

10 CDC[MR. COOMBS]: Yes, Your Honor.
11
12

13 **REDIRECT EXAMINATION**

14 **Questions by the civilian defense counsel [MR. COOMBS]:**

15 Q. Ms. Smith, if the command submits a DEROG and
16 recommendation that either no action be taken or a Soldier's
17 clearance is to be suspended, in your experience does CCF generally
18 follow the recommendation of the command?

19 A. Pretty much, yes, based on what the actual incident was.

20 CDC[MR. COOMBS]: Thank you.

21 MJ: Ms. Smith, I just have a couple of questions for you.

22 **EXAMINATION BY THE COURT-MARTIAL**

23 **Questions by the military judge:**

1 Q. What, if any, guidance is out there on mental health
2 treatment and DEROGs?

3 A. The basic information on mental health, when it comes to a
4 DEROG is provided in AR 380-67.

5 Q. Do you know what it is? Is this beyond your expertise?

6 A. Yes, ma'am.

7 MJ: All right. I'll withdraw the question. Any further
8 questions?

9 CDC[MR. COOMBS]: No, Your Honor.

10 TC[MAJ FEIN]: No, ma'am.

11 **[The witness was temporarily excused, duly warned, and withdrew from**
12 **the courtroom.]**

13 MJ: All right. Do we have any further business to take up
14 today.

15 CDC[MR. COOMBS]: No, Your Honor.

16 TC[MAJ FEIN]: No, ma'am.

17 MJ: What time would we like to start tomorrow?

18 CDC[MR. COOMBS]: 0930 is fine, Your Honor.

19 TC[MAJ FEIN]: Sounds great.

20 MJ: All right. Court is in recess until 0930 tomorrow morning.

21 **[The court-martial recessed at 1651, 13 August 2013.]**

22 **[END OF PAGE]**

1 [The court-martial was called to order at 0948, 14 August 2013.]

2 MJ: Court is called to order. Captain Morrow, please account
3 for the parties.

4 ATC[CPT MORROW]: Yes, Your Honor. All parties present -- All
5 parties present when the court last recessed are again present with
6 the following exception: Major Fein is absent, I'm obviously
7 present. As of 0938, there are 40 members of the media at the media
8 operation center, one stenographer; six media in the courtroom panel
9 box, 30 spectators in the courtroom; 40 spectators in the overflow
10 trailer and then eight additional spectators in the Burba lake
11 cottage, addition overflow trailer, or overflow area.

12 MJ: All right. Thank you. Just briefly, counsel, and I met in
13 an R.C.M. 802 conference just prior to coming on today just to
14 discuss logistics and scheduling issues that will arise in the case
15 and there was a request from the defense that certain witnesses who
16 may be testifying today be allowed to remain in the courtroom. Is
17 that correct?

18 CDC[MR. COOMBS]: That is correct, Your Honor. The defense
19 requests Ms. Casey Major and Ms. Debbie Van Alstyne to remain in the
20 courtroom.

21 MJ: Government, do you have any objection to that?

22 ATC[CPT OVERGAARD]: No, ma'am, we do not.

23 MJ: Then, I assume they are here?

1 CDC[MR. COOMBS]: That is correct, Your Honor.

2 MJ: Have there been any additional exhibits marked?

3 ATC[CPT MORROW]: Yes, ma'am. Appellate Exhibit 657 alpha are
4 the mental health records reviewed by the Court in camera on 13
5 August 2013. Appellate Exhibit 657 bravo are the released mental
6 health records after that in camera review also on 13 August.

7 MJ: All right. Thank you. Before we proceed with the defense
8 case, the Court is prepared to rule on the defense motion for
9 appropriate relief under R.C.M. 1001(b)(4) Commander Youssef Aboul-
10 Enein.

11 On 8 August 2013, in accordance with the procedures
12 established in the Court's Ruling: Defense Motion for Appropriate
13 Relief Under R.C.M. 1001(b)(4) (Appellate Exhibit 639), the Defense
14 filed four objections to the testimony of Commander Youssef Aboul-
15 Enein (Appellate Exhibit 647). The Government filed a response in
16 opposition (Appellate Exhibit 648). Each Defense objection is listed
17 below followed by the Government response and the Court's ruling on
18 the objection.

19 Objection One: Commander Aboul-Enein's testimony that
20 specifically mentioned the Little Rock recruiting station shooting
21 and the Fort Hood shooting is irrelevant under both M.R.E. 402 and
22 M.R.E. 403. The Defense requests that the Military Judge not
23 consider that testimony in her capacity as the Sentencing Authority.

1 Government Position: Commander Aboul-Enein testified that
2 al Qaeda seeks to elicit acts of violence against the United States
3 in a leaderless environment. Commander Aboul-Enein testified that
4 these are examples of attacks desired by al Qaeda. Commander Aboul-
5 Enein's statement demonstrates examples and context of the effects of
6 al Qaeda propaganda. Commander Aboul-Enein testified that the
7 accused's misconduct provided a basis for al Qaeda propaganda, and
8 that the accused's misconduct strengthened propaganda. Al Qaeda's
9 propaganda is permissible aggravating evidence of the risk of damage
10 or harm caused by the accused's misconduct. See Appellate Exhibit
11 639. Therefore, Commander Aboul-Enein's testimony of examples is
12 context for proper aggravating evidence.

13 Ruling: Commander Aboul-Enein cited the Little Rock
14 recruiting station shooting and the Fort Hood shooting as examples of
15 why al Qaeda believes narrative is important to recruitment. The
16 testimony is relevant. The Court takes judicial notice that both
17 events took place prior to PFC Manning's offenses. The Court will
18 consider this evidence solely for the purpose of serving as examples
19 of why narrative is important to al Qaeda for recruitment.
20 Considered as context evidence, the probative value of this testimony
21 is not substantially outweighed by danger of unfair prejudice under
22 M.R.E. 403.

1 Objection Two. Commander Aboul-Enein's general testimony
2 about the implicit threat to British and American officials from
3 militant Islamic organizations through public identification. The
4 only matters appropriate for consideration are the threats that
5 directly related to or resulted from PFC Manning's misconduct. The
6 general testimony about the practice is barred by R.C.M. 1001(b) (4).

7 Government Position: Commander Aboul-Enein's testimony
8 regarding the al Qaeda practice of threatening British and American
9 officials serves as foundation and explanation for the types of
10 threats employed by al Qaeda. Commander Aboul-Enein testified that
11 al Qaeda threatened individuals named in WikiLeaks in information
12 compromised by the accused. Therefore, Commander Aboul-Enein's
13 testimony regarding threats against British and American officials
14 should be considered as context for the threats al Qaeda made in
15 Inspire magazine against individuals revealed by the accused's
16 misconduct.

17 Ruling: The testimony was that Inspire magazine used
18 WikiLeaks images associated with named government individuals and
19 also used WikiLeaks released cables associated with named government
20 individuals. The ensuing risk of danger to these individuals relates
21 directly to and results from PFC Manning's offenses. This testimony
22 is admissible aggravation evidence under R.C.M. 1001(b) (4).

1 Objection Three. The testimony beginning with the
2 discussion of the "Manchester Document" and ending with how that
3 historical lesson provides insight into how militant Islamists may
4 use the purported Significant Activity Reports (SIGACTs) from CIDNE-
5 Iraq and CIDNE-Afghanistan. This testimony reveals a level of
6 speculation that made it inadmissible. ("Speculation" was the word
7 used by Commander Aboul-Enein on both direct and cross on this
8 particular topic.) There was no application of expertise to a given
9 set of facts by the witness, only the telling of a fabricated
10 narrative, M.R.E. 702. The defense also objects to the evidence as
11 violating R.C.M. 1001(b)(4).

12 Objection Four. Commander Aboul-Enein's testimony
13 regarding militant Islamist organizations potential uses of SIGACTs.
14 Again, "speculation" was the word used by Commander Aboul-Enein. By
15 speculating, even an expert fails to meet the appropriate standards
16 for his testimony under M.R.E. 702. The evidence is also
17 inadmissible under R.C.M. 1001(b)(4).

18 Government Position with respect to Objections 3 and 4:
19 Commander Aboul-Enein's testimony regarding the Manchester Document
20 falls within his expertise in al Qaeda terrorism and his broad
21 experience, which is detailed in Prosecution Exhibit 183. Commander
22 Aboul-Enein was qualified as an expert in al Qaeda terrorism and its
23 ideology. Terrorism involves the use of information to serve

1 terrorist goals. Commander Aboul-Enein testified that compromised
2 information in the Manchester Document was connected to al Qaeda
3 operational activities. Additionally, Commander Aboul-Enein
4 testified that the information contained in the Manchester Document
5 was associated with al Qaeda tactics, to include tactics about
6 resisting arrest. Commander Aboul-Enein further testified that the
7 al Qaeda's use of the information was discovered over 10 years after
8 al Qaeda first obtained the information and that al Qaeda was still
9 in possession of the information when it was discovered in 2000.
10 This testimony serves as foundation and explanation of al Qaeda's use
11 of military information compromised by the accused. Commander Aboul-
12 Enein testified that it was his opinion that al Qaeda had an interest
13 in the types of military information contained in the Manchester
14 Document because al Qaeda had used it. Commander Aboul-Enein
15 testified that he was familiar with SIGACTs. Commander Aboul-Enein
16 testified that SIGACTs contain military information, which is similar
17 to information in the Manchester document. Commander Aboul-Enein
18 testified that, in his opinion, al Qaeda is interested in SIGACT
19 information. Al Qaeda's interest in SIGACT information is
20 permissible aggravating evidence of the risk of damage or harm caused
21 by the accused's misconduct. See Appellate Exhibit 639.

22 Continuing on with the Government position: Commander
23 Aboul-Enein testified that al Qaeda is interested in military

1 operational information and employed such information in its training
2 manuals. Commander Aboul-Enein testified that al Qaeda, in Inspire
3 magazine, requested that SIGACTs be "data mined." Commander Aboul-
4 Enein was qualified as an expert in al Qaeda terrorism. Terrorism
5 includes operational activities, to include violent attacks.
6 Accordingly, Commander Aboul-Enein testified that, in his opinion, al
7 Qaeda would use information compromised by the accused in its
8 operations because al Qaeda had requested the information be "data
9 mined" and al Qaeda had used similar information previously in the
10 Manchester Document. Commander Aboul-Enein's opinion that al Qaeda
11 would use SIGACT information is permissible aggravating evidence of
12 the risk of damage or harm caused by the accused's misconduct. See
13 Appellate Exhibit 639.

14 Finally, Commander Aboul-Enein also testified that al Qaeda
15 is a clandestine organization and that discovery of its uses of
16 compromised information is not immediately discoverable.

17 Ruling:

18 Objections Three and Four: The objected to testimony
19 involves Commander Aboul-Enein's testimony about the type of military
20 information al Qaeda is interested in and the capacity of al Qaeda to
21 gather and analyze the English language SIGACTs released by
22 WikiLeaks. Commander Aboul-Enein used the Manchester Document and
23 Soviet manuals as examples of the type of military information al

1 Qaeda is interested in and how they use the information to draft
2 their own training manuals and procedures. Commander Aboul-Enein is
3 familiar with SIGACTs and, on direct examination, testified how
4 language is not a barrier to translation. During this testimony,
5 Commander Aboul-Enein used the word "speculate" when testifying about
6 examples of how al Qaeda could use information from the SIGACTs to
7 analyze and deduce patterns of U.S. Forces, develop counter measures
8 and ambushes, and gain understanding of how U.S. Forces operate to
9 emulate the techniques. These are examples of the type of
10 information in the SIGACTs that al Qaeda would be interested in and
11 how al Qaeda has capacity to gather and analyze such information is
12 within the scope of Commander Aboul-Enein's expertise. The testimony
13 is based on sufficient facts or data and is the product of reliable
14 principles and methods. Commander Aboul-Enein reliably applied the
15 principles and methods to the facts of this case. This testimony is
16 admissible expert testimony under M.R.E. 702. The fact that
17 Commander Aboul-Enein used the word "speculate" when giving an
18 example of al Qaeda's capacity to collect and analyze the released
19 SIGACTs, does not remove this testimony from the scope of Commander
20 Aboul-Enein's expertise. Evidence of al Qaeda interest in acquiring
21 U.S. tactics, techniques, and procedures and evidence of al Qaeda's
22 capacity to collect and analyze the released SIGACTs is evidence of
23 risk to the national security of the United States that is directly

1 related to and resulting from PFC Manning's offenses. It is
2 admissible aggravation evidence under R.C.M. 1001 (b) (4). Evidence
3 elicited by the Defense that Commander Aboul-Enein is not aware of
4 any reports to date that al Qaeda has exercised its capacity to
5 acquire and analyze the released SIGACTs goes to the weight of his
6 testimony.

7 M.R.E. 403 analysis:

8 The probative value of those portions of the testimony and
9 evidence ruled admissible as aggravation evidence under R.C.M.
10 1001(b)(4) is not substantially outweighed by the danger of unfair
11 prejudice under M.R.E. 403. The Court has limited the scope of the
12 testimony and evidence to periods directly related to or resulting
13 from PFC Manning's offenses and context evidence with respect to
14 objection

15 So ORDERED this 14th day of August 2013.

16 This ruling will be marked next appellate exhibit in line.

17 Is there anything else we need to address before we proceed
18 to the defense case?

19 ATC[CPT MORROW]: No, Your Honor.

20 CDC[MR. COOMBS]: Your Honor, the defense had previously
21 requested the Court take judicial notice on the number of public
22 statements. Those have been marked. I would move those into
23 evidence at this point, Defense Exhibit for Identification XXX are

1 statements of Geoffrey Morell, President Obama, and former Secretary
2 Gates and then YYY is a statement of former Secretary Gates and
3 former Secretary Clinton.

4 MJ: All right. Any objection to Defense Exhibit XXX and
5 Defense Exhibit YYY?

6 ATC[CPT MORROW]: No, Your Honor.

7 MJ: All right. I need to go back and look at my ruling, but
8 one of these was for non-hearsay purposes and one of them -- one of
9 the categories was for hearsay -- to include the hearsay.

10 CDC[MR. COOMBS]: Yes, ma'am. XXX, there was a hearsay
11 exception for those statements and then YYY are offered for non-
12 hearsay purposes.

13 MJ: All right. Government agree?

14 CDC[MR. COOMBS]: Yes, Your Honor, and our understanding is
15 neither of those exhibits are -- the Court doesn't need to relax
16 rules of evidence in order to include those.

17 MJ: All right. Defense Exhibits XXX and YYY for Identification
18 are both admitted. Proceed.

19 CDC[MR. COOMBS]: I'm just going to call my first witness,
20 Your Honor.

21 MJ: All right. Proceed.

22 CDC[MR. COOMBS]: The defense calls Captain Michael Worsley to
23 the stand.

1 CAPTAIN MICHAEL WORSLEY, U.S. Army Reserves, was called as a witness
2 for the defense, was sworn, and testified as follows:

3 DIRECT EXAMINATION

4 Questions by the assistant trial counsel [CPT von ELTEN]:

5 Q. For the record, you're Captain Michael Worsley of the
6 1835th Medical Detachment CSC?

7 A. Correct.

8 Questions by the civilian defense counsel [MR. COOMBS]:

9 Q. Good morning, Dr. Worsley.

10 A. Good morning.

11 Q. You are a clinical psychologist?

12 A. Yes, sir.

13 Q. And you're currently -- Are you currently on active duty?

14 A. Only for this trial, sir. I'm in the reserves.

15 Q. And were you ever on active duty?

16 A. Yes, sir.

17 Q. And how long were you on active duty?

18 A. Four years in the Marine Corp as an enlisted person and a
19 year for the Army, sir.

20 Q. And you're currently, I take it, in the reserves, then?

21 A. Yes, sir.

22 Q. And how long have you been in the reserves?

23 A. Since 2000 -- December 2007.

1 Q. In December of 2009, did you evaluate PFC Manning?
2 A. I did.
3 Q. And did you treat PFC Manning through December of 2009
4 through May of 2010?
5 A. I did.
6 Q. Dr. Worsley, are you prepared today to tell us about your
7 treatment and evaluation of PFC Manning during the Iraq deployment?
8 A. I am.
9 Q. Now, let's start off by learning a little bit about you.
10 You obtained your Bachelors of Science in psychologist from the
11 University of Houston Victoria. Is that correct?
12 A. Yes, sir.
13 Q. And when did you obtain that degree?
14 A. 1998.
15 Q. You then began your Masters of Arts in clinical psychology
16 from the University of Houston, Victoria. Is that correct?
17 A. Yes, sir.
18 Q. And did you obtain that degree?
19 A. No, sir.
20 Q. And can you explain why not?
21 A. To get a doctorate in psychology, at that point, I didn't
22 need to get a masters. I could go directly into the doctorate

1 program and that's what I did. I left my master's program to enter
2 in a doctorate program.

3 Q. And I take it, then, you obtained your doctorate?

4 A. Yes, sir.

5 Q. And when did you do that?

6 A. 2003.

7 Q. And was that in clinical psychology?

8 A. Yes, sir.

9 Q. Where did you do your psychology internship and residency?

10 A. The internship was at the University of Texas Health
11 Science Center, San Antonio and from there I went to Missouri State
12 Hospital in Farmington, Missouri.

13 Q. And how long did it take to complete the internship and
14 residency?

15 A. The internship was a year and the follow-on post-doc -- or
16 post-doctoral studies was about 10 months.

17 Q. Dr. Worsley, let's turn to, now, your actual experience
18 evaluating patients. How many patients have you seen in your years
19 of practice?

20 A. Many.

21 Q. Can you put a number to that?

22 A. Hundreds.

23 Q. And what methods do you use in evaluating a patient?

1 A. It depends on the issue. Typically, clinical interview,
2 any assessment tools that we need, spending time with somebody. The
3 evaluation process is continuous, so ----

4 Q. Can you briefly describe what a typical working day would
5 be like for you as a clinical psychologist?

6 A. In my position now?

7 Q. Yes.

8 A. It's a 9:00 to 5:00 job. Typically, in the position I am
9 in with the Department of the Army, I receive referrals from primary
10 care providers. They bring folks that are having mental health
11 issues or just have questions and I see people throughout the day.

12 Q. Now, let's discuss of the past positions that you've held.
13 You were a psychologist for the Arizona Department of Corrections?

14 A. That's correct, for 3 years.

15 Q. And what time period did you hold that position?

16 A. That was from 2005 to 2008.

17 Q. And what were your general duties in that position?

18 A. I served as the lead psychologist at a prison in west
19 Phoenix. So I supervised a team of mental health professionals for
20 about 5,000 inmates.

21 Q. Were you also the staff psychologist for the Veterans
22 Health Administration?

23 A. Yes.

1 Q. And when did you hold that position?

2 A. I began with the VA in 2008 -- 2008 until this year, 2013.

3 Q. And what were your general duties in that position?

4 A. I began as a general psychologist just in the mental

5 health. From there, I moved into a specific program for post-

6 traumatic stress disorder. Then I deployed to Iraq. I came back,

7 worked in the Post-Traumatic Stress Disorder Clinic again and then

8 did compensation impingement exams.

9 Q. And because you said you deployed, is that the time you

10 went on active duty and deployed to FOB Hammer, Iraq?

11 A. Yes. That was one of the places, yes, sir.

12 Q. And what were general duties at FOB Hammer, Iraq?

13 A. My duties with the Combat -- I was with the 1908th Medical

14 Detachment at that time and our duties were to basically augment the

15 behavioral health officer for the brigade.

16 Q. And currently you're a clinical psychologist with the Evans

17 Army Community Hospital?

18 A. That's correct.

19 Q. And how long have you been there?

20 A. Since January of this year.

21 Q. And what are your general duties in that position?

22 A. Clinical psychologist. Again, my title was an Internal

23 Behavioral Health Consultant. I get referrals from the primary care

1 providers for dependents and retirees for the most part. Some active
2 duty folks.

3 CDC[MR. COOMBS]: Your Honor, at this time, the defense
4 requests the Court recognize Dr. Worsley as an expert under M.R.E.
5 702 and the subject matter expertise of clinical psychology.

6 MJ: Any objection?

7 ATC[CPT VON ELTEN]: No objection, Your Honor.

8 MJ: So accepted. Proceed.

9 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

10 Q. I know you said you went to Iraq. Do you recall the month
11 you deployed to Iraq?

12 A. I believe we got there in December of 2009.

13 Q. And as part of your job when you were in Iraq, would you
14 review ongoing cases?

15 A. Yes.

16 Q. And were some of these cases command directed evaluations?

17 A. Yes.

18 Q. Do you know who Captain Martin Leibman is?

19 A. Yes, he was with the 55th Medical Company, the folks that
20 we replaced.

21 Q. And how do you know him? Was he your counterpart?

22 A. He was a clinical psychologist at Hammer when I got there.
23 We were supposed to do a left seat/right seat change out.

1 Q. Did you receive any referrals from him in December of 2009
2 that were command directed mental health evaluations?

3 A. Yes, he had just completed one with PFC Manning.

4 Q. And when -- Actually, why was he referring PFC Manning to
5 you at that point?

6 A. Based on his -- From what I remember, of his command
7 directed evaluation, the recommendation that he made was that Manning
8 partake in ongoing psychotherapy.

9 Q. Was your office at FOB Hammer?

10 A. Yes.

11 Q. And when you met PFC Manning, was that also at FOB Hammer?

12 A. Yes, sir.

13 Q. How large was FOB Hammer?

14 A. Everything was within walking distance. I can't remember
15 the specific size of it. Maybe a mile by a mile square.

16 Q. So if a Soldier wanted to, they could walk to meet with you
17 if they needed to?

18 A. Absolutely. We were -- Our office was attached to the back
19 of the medical unit.

20 Q. Doctor, I'm handing you what's been marked as Defense
21 Exhibit VVV for Identification.

22 A. Okay.

1 Q. If you would, for a moment, take a look at that and thumb
2 through it and when you're done ---
3 A. I forgot my glasses. I left my glasses. Sorry.
4 Q. We can retrieve your glasses. Are they in the ---
5 A. They're just on the table. Sorry, I forgot my reading
6 glasses.
7 CDC[MR. COOMBS]: I'm fighting that myself?
8 WIT: I turned 40 and it was all downhill.
9 **[There was a brief pause while the defense retrieved the witness'**
10 **reading glasses from the waiting area.]**
11 WIT: Sorry.
12 CDC[MR. COOMBS]: No worries. Nice glasses.
13 WIT: Thank you. Army issued.
14 A. These appear to be notes that I wrote while in theater.
15 Q. And who are these notes for?
16 A. PFC Manning.
17 Q. And, generally, what time period do these notes cover?
18 A. They start 30 December and the last one is 26 May.
19 Q. And why do you write notes such as the ones that are in
20 front of you?
21 A. To document any care that we give, any issues that we have.
22 Q. Based upon your observation there, do those look like the
23 notes that you produced?

1 A. Yes.

2 CDC[MR. COOMBS]: Your Honor, at this time the defense offers
3 Defense Exhibit VVV for Identification into evidence as Defense
4 Exhibit VVV.

5 ATC[CPT VON ELTEN]: No objection.

6 MJ: May I see it, please? All right. Defense Exhibit VVV for
7 Identification is admitted.

8 CDC[MR. COOMBS]: And Your Honor, we have a copy for the
9 Court.

10 MJ: Thank you.

11 CDC[MR. COOMBS]: I'm handing the exhibit back to the witness.

12 **Questions continued by the civilian defense counsel [MR. COOMBS]:**

13 Q. Doctor, I'd like to go through the times that you saw PFC
14 Manning and discuss a few of them in more detail. When was the first
15 time that you saw PFC Manning?

16 A. The first time I documented was 30 December 2009.

17 Q. And what type of evaluation was the 30 December 2009
18 meeting?

19 A. I think it would have been our initial meeting. I hadn't -
20 - I was brand new to the Forward Operating Base and this was the one
21 that Captain Leibman suggested that I follow on, so.

22 Q. How does this initial meeting differ from a command
23 directed evaluation?

1 A. At that point, it was voluntary. He -- PFC Manning decided
2 to come or wanted to come. No feedback was given to any of the
3 command. It was basically like any psychotherapy you would have out
4 in the real world. It was confidential.

5 Q. Now, in general, why would somebody be coming to see you
6 voluntarily?

7 A. People came to see us for all different kinds of reasons.
8 Specifics would be suicidal or homicidal ideation. That would be the
9 command directed folks, but I had folks that came voluntarily because
10 they were stressed out, feeling some kind of stress either in theater
11 or from back home.

12 Q. Prior to your 30 December meeting, did you speak with
13 Captain Leibman about PFC Manning?

14 A. Other than Captain Leibman telling me that he was going to
15 suggest that I follow up with PFC Manning, Specialist Manning, at
16 that time but PFC Manning, no.

17 Q. And why didn't you speak with Captain Leibman prior to
18 meeting with PFC Manning?

19 A. Well, typically when a new unit comes in there's what we
20 call a left seat/right seat where we change out, people getting
21 introduced to people who are in key positions. For whatever reason,
22 Captain Leibman was unable to kind of complete that properly and so I
23 was kind of starting from ground zero. And so I think he didn't even

1 turn over the keys to the office until the day he left and that's
2 pretty atypical, so.

3 Q. Prior to meeting with PFC Manning, did you speak with
4 anyone from PFC Manning's chain-of-command?

5 A. No.

6 Q. As part of your review of PFC Manning's records, did you
7 ever see a memorandum for a record written by then Master Sergeant
8 Adkins dated 21 December 2009?

9 A. I believe it was part of his record, his medical record.

10 CDC[MR. COOMBS]: I'm handed you Defense Exhibit XX. Doctor,
11 take a look at that and when you are done look up at me.

12 **[There was a brief pause while the witness reviewed the exhibit.]**

13 Q. Doctor, do you recognize that?

14 A. As much as I can remember, yes, sir.

15 Q. And when you said you saw this, was this at the time that
16 you did your initial meeting with PFC Manning during December or did
17 you see it at some point later?

18 A. I would think it would probably have been part of -- if I
19 remember correctly, this was a memorandum that Master Sergeant Adkins
20 gave to Captain Leibman prior to the command directed evaluation. So,
21 I think that he had it as part of his paper file that was maintained.

22 Q. And when you saw that memorandum, did you attempt to speak
23 with Master Sergeant Adkins about the memorandum?

1 A. No.

2 Q. Did Master Sergeant Adkins or anyone in the chain-of-
3 command attempt to speak to you once it was clear that PFC Manning
4 was now being sent to you?

5 A. No.

6 Q. Did you know what PFC Manning's military occupational
7 specialty was at this point?

8 A. I knew that he worked as an Intel Analyst.

9 Q. And did you understand what an Intel Analyst did?

10 A. I don't think that I knew what a day-to-day process was for
11 them. I knew they had something to do with Intel.

12 Q. How long did PFC Manning meet with you on this first
13 meeting?

14 A. Typically, they're located in here ----

15 Q. I'll retrieve Defense Exhibit XX.

16 A. Yes, sir. I think the first time we met it was kind of a
17 "how are you doing, get to know you." Introduced myself. Probably
18 20 to 30 minutes.

19 Q. And based upon that meeting, what did you learn about PFC
20 Manning?

21 A. Based on my notes, that he was having issues at work and
22 that he explained -- I think I had asked him about the reason for the

1 command directed evaluation. He explained the outburst and we talked
2 about working together on some specific issues that might help.

3 Q. Based upon your meeting, did you perceive that PFC Manning
4 exhibited any trust issues with you?

5 A. From the beginning, he was somewhat guarded. I mean, we
6 always worry about folks that will come in the very first time they
7 meet you and spill their guts. It's never a good sign. The opposite
8 is also true. We want to develop a relationship and, at that point,
9 it was difficult.

10 Q. Did you determine that PFC Manning needed further treatment
11 based upon this initial meeting?

12 A. Yes.

13 Q. And why was that?

14 A. A little bit bias, I guess. I assume that everybody can
15 benefit from some treatment. As a clinical psychologist, I guess
16 it's job security. At the same time, he had been identified as
17 somebody who needed some continuing help as well, so.

18 Q. Doctor, I'd like now to look at your second evaluation of
19 him on 6 January 2010. What type of evaluation was the 6 January
20 meeting?

21 A. Again, just a follow-on the treatment.

22 Q. And prior to this meeting, did anyone speak with you from
23 the chain-of-command?

1 A. Not that I recall.

2 Q. How long did this meeting last?

3 A. Let's see, I would assume between 30 and 45 minutes.

4 Q. And what was the goal of the second meeting now that you
5 had that initial meeting with PFC Manning?

6 A. Again, I think it was continuing the relationship,
7 identifying the specific treatment goals and doing some exploration
8 on what those goals might be.

9 Q. In this meeting, did you note whether or not you still
10 believed PFC Manning had a trust issue with you?

11 A. Let's see, obviously I said focus of treatment continues to
12 be on establishing a trusting, therapeutic relationship.

13 Q. Why would you document that?

14 A. I think the reason that I typically document those things
15 is in the beginning, especially in the beginning of treatment, it's
16 important to kind of have that feeling that we're moving toward, I
17 guess, a relationship, if you will, a trusting relationship and so I
18 felt that there was still some things that perhaps he was still kind
19 of guarded against sharing too much.

20 Q. Based upon now this second meeting, did you document any
21 diagnosis that you might have come to?

22 A. I think that I continued the diagnosis that was previously
23 given and that was anxiety disorder not otherwise specified.

1 Q. Now, let's look to your next evaluation that occurs on 16
2 February 2010. Do you recall why there was a 40-day gap between your
3 sessions?

4 A. I don't. I don't have any recollection why there would be.
5 I know that I wanted to see him weekly. And to be honest with you, I
6 don't recall why there was a 40-day gap.

7 Q. Were you ever told when PFC Manning might have gone on his
8 mid-tour leave?

9 A. I think at some point he did, but I can't recall
10 specifically when that was.

11 Q. What type of meeting was the 16 February meeting?

12 A. Again, it was just a follow-on therapy session.

13 Q. For this meeting, did anyone from the chain-of-command come
14 and speak with you?

15 A. No.

16 Q. Did you learn any additional information from the chain-of-
17 command regarding PFC Manning's behavior or conduct at all during
18 this time?

19 A. No.

20 Q. How long did you meet with PFC Manning on this meeting?

21 A. Approximately 45 minutes.

1 Q. Now, you indicated in your notes that PFC Manning spent a
2 great deal of time trying to focus on other issues such as his recent
3 leave and not easily being redirected. What do you mean by this?

4 A. I think we were -- The focus at that point was the issues
5 that he was having with work and his peers and focusing on how we
6 could help him along those lines.

7 Q. You also noted that PFC Manning continued to focus on an
8 inability to be himself. Why would you note that?

9 A. Well, I think that he probably brought up some things in
10 therapy or in the session that he defined as this issue of identity,
11 questioning how he could be himself. So, to be honest, this was a
12 cryptic way of saying he was questioning some things about who he was
13 and what was going on, so.

14 Q. Finally, you also note that it appears that PFC Manning
15 needed long-term psychotherapy to explore and understand his issues?

16 A. Right.

17 Q. What was your basis for that conclusion?

18 A. At that point, I think there was starting to be developed
19 in my mind that this was a personality issue. I mean, this was --
20 the way that we define personality is basically how somebody sees the
21 world. It's like putting on rose colored glasses or blue glasses.
22 You tend to see everything blue. And so the personality was that
23 with the way that he saw his world, that this was a long-term --

1 going to be a long-term process for us to kind of possibly get him to
2 see things in a different way or get him to adapt to the world in the
3 way that he saw it in a way that was functional and healthy.

4 Q. Based upon this meeting, you made an additional diagnosis?

5 A. Personality disorder, rule out a personality disorder.

6 Q. What does a rule out diagnosis mean?

7 A. It just means that we don't have enough information.

8 Clearly, there was something in his personality that suggested to me
9 that there was an issue. But at that point, I was still, again,
10 getting knowledge, having access to him, talking, learning about him.
11 So we hate to just put that on somebody without having the
12 appropriate documentation to do that.

13 Q. Doctor, you next saw PFC Manning on 2 March?

14 A. Yes.

15 Q. And I understand from your previous testimony you wanted to
16 see him weekly. Do you know why there was a 2-week gap in your
17 sessions here?

18 A. Again, I don't know.

19 Q. And the 2 March meeting here, was this also voluntary?

20 A. Yes.

21 Q. And prior to this meeting, did you speak with anyone from
22 the chain-of-command?

23 A. No.

1 Q. Did anyone from the chain-of-command try to provide you
2 with any additional information that might be beneficial to your
3 evaluation?

4 A. Not that I recall.

5 Q. How long did you meet with PFC Manning for this session?

6 A. Between 45 and 50 minutes.

7 Q. And you indicated in your notes here that PFC Manning
8 continued to be guarded when discussing concerns. Do you recall why
9 you would come to that conclusion?

10 A. Again, I think when it was -- when you sit with somebody
11 and you feel like you're working harder than they are to get
12 information, I find that I would describe those people as guarded,
13 you know. They're not willing to share. They're not wanting to or
14 are not able to share and so guarded is a term that we use to
15 describe that.

16 Q. You also noted that PFC Manning continued to deflect issues
17 that were too close to his comfort zone?

18 A. Right.

19 Q. Do you recall why you made that observation?

20 A. I can't recall specifically. I can say that typically when
21 we start to get to a core issue, people become very adamant about not
22 getting too close if they're not ready and perhaps he just wasn't
23 ready at that time or I was fumbling in the way that I did it. I

1 certainly can't blame him on that, but typically when we get to
2 issues that are hot buttons, if you will, people will resist or
3 deflect.

4 Q. Doctor, let's now turn to your 16 March evaluation. Prior
5 to this meeting, did anyone from the chain-of-command speak with you?

6 A. Not that I recall.

7 Q. Did anyone from the chain-of-command try to give you
8 additional information concerning PFC Manning, any concerns they
9 might have?

10 A. Not that I recall.

11 Q. How long was this meeting?

12 A. Between 45 and 50 minutes.

13 Q. Now, I want to talk about a couple of things in your notes
14 here. You indicated in your notes that PFC Manning conveyed to you
15 that his NCOIC described him as being catatonic.

16 A. Uh-huh.

17 Q. How did this seem to impact PFC Manning?

18 A. Well, based on my notes, I remembered that the relationship
19 that he had with his command -- well, master sergeant was interesting
20 and I think the description by this master sergeant of him as
21 catatonic kind of bothered him. I'm not sure exactly why. I'm sure
22 that we talked about it, but I don't have a whole lot of recollection
23 why.

1 Q. You used a term that the relationship was interesting.

2 What did you mean by that?

3 A. This master sergeant -- Well, based on -- we don't get a
4 whole lot of memos about people from their commanders and I remember
5 thinking that first memo that was part of his record prior to that
6 commander directed evaluation from Captain Leibman, that it was just
7 interesting that this guy would take the time to write out this thing
8 and take this great interest in PFC Manning, but I wasn't sure why.
9 It didn't seem like it did anything helpful, but he was just
10 interested like it was a case study, so.

11 Q. Now, did you -- With regards to Master Sergeant Adkins --
12 and we'll cover some of the later evaluations, but at any time did he
13 come directly to you to talk to you?

14 A. I don't believe so.

15 Q. Within your history of present illness section you note a
16 persistent anxiety about one's anticipated performance. Do you
17 recall why you made that notation?

18 A. I believe it was -- again, it was PFC Manning's just
19 concern about his job and about what he was doing, how he was doing
20 it, how it was being perceived, how he was being perceived. There
21 was always a lot of anxiety about that.

22 Q. And also within the section you noted hypersensitivity,
23 overreacting to real and imagined slights or failures?

1 A. Right.

2 Q. Why did you make that notation?

3 A. I believe, at that point, we had been talking about him
4 just being super critical of himself. I'm not sure -- I can't recall
5 specifically why, but feeling like he was never enough or never good
6 enough or never able to do the right thing at the right time,
7 something along those lines.

8 Q. Now, during this meeting with PFC Manning, did you discuss
9 his plans for the future?

10 A. Yes.

11 Q. And, first of all, why would you discuss future plans with
12 a patient?

13 A. I think, at that point, we were trying to identify what his
14 goals were, kind of how he saw himself, where he saw himself going so
15 that we could kind of identify, then, those issues that we could work
16 on to help him achieve those goals.

17 Q. And what were his future plans?

18 A. I think, at that point, he was willing to share that he
19 wanted to get out of the Army, go on to school, maintain his security
20 clearance as he knew that opened up a lot of doors.

21 Q. Based upon this meeting, did you change your diagnosis at
22 all?

1 A. It looks like, at that point, I solidified a personality
2 disorder issue. I didn't leave a rule out on at that point.

3 Q. And what personality disorder did you find?

4 A. To be honest with you, I can't remember. I would think it
5 would probably be an NOS.

6 Q. What does that stand?

7 A. "Not otherwise specified," meaning that there's lots of
8 different things that it could be and it meets the criteria for a
9 personality disorder, but an undefined one, kind of -- to be honest
10 with you, it's a really horrible diagnosis, kind of a catch-all. But
11 at that point it was, like, all right, this is clearly a way that he
12 sees the world and it's a personality issue, so.

13 Q. Now, you next saw PFC Manning on 23 March?

14 A. I have 24 March or is it 23 March? It's dated 23 March,
15 yes. But the note is written on 24 March.

16 Q. And with regards to that, would it be atypical for you to
17 type up your notes the following day after an interview?

18 A. No, typically, as long as we got them done within 24 hours
19 we were doing well.

20 Q. Now, with regards to this meeting, how long was it?

21 A. Between 45 and 50 minutes.

1 Q. And you indicated in this meeting in your notes that PFC
2 Manning continued to have difficulty in the workplace. What did you
3 base that determination upon?

4 A. Well, in the note, we went on to talk about a difficult
5 place in general because there's little trust, many different
6 personalities. He began to share with me a little bit more about the
7 intel world and how that kind of functions, people kind of moving for
8 power and what is power and how they kind of perceive that.

9 Q. Now, you also concluded that PFC Manning appeared to be
10 filtering everything that he said to you. Why did you feel that was
11 true?

12 A. He had a way of expressing himself where you can tell there
13 was a lot of thought into how could this be misconstrued or construed
14 and he would stop and think about -- kind of like I am now -- stop
15 and think about what I am about to say so that there wouldn't be
16 mixed messages. Clearly he wanted to portray something.

17 Q. And you concluded that PFC Manning was still having
18 difficulty trusting you as a provider. Why did you feel that was
19 still true?

20 A. Again, I think it was just the process of filtering the
21 guardedness that I felt. His willingness to share some things and
22 when pressed on some things he would just -- you could just feel the
23 defenses go up and you weren't getting any information, so.

1 Q. Doctor, now let's turn to the 30 March evaluation. And as
2 with the previous, did anyone from the chain-of-command for PFC
3 Manning share any information with you or any observations prior to
4 this evaluation?

5 A. Not that I recall.

6 Q. Here you concluded that he continued to resist efforts to
7 explore his work-related issues and had difficulty moving from his
8 work environment into an interpersonal environment. Why did you make
9 that determination?

10 A. Well, to be honest with you, based on my -- to the best of
11 my recollection, I would think that it was -- we talked about his
12 coworkers, we talked about him interacting with them interpersonally,
13 outside of work, and the difficulties that he was having in that he
14 was finding it difficult, I think, to find peers in a deployed
15 environment.

16 Q. How was this feeling always of, I guess, always being on
17 guard impacting PFC Manning based upon your observation?

18 A. Well, it certainly kept him, you know, it's a weird world I
19 think for intel folks in general. I think being deployed is very
20 isolating. Being an intel person working with Top Secret clearance
21 again, I have no idea what that's like, but is even more isolating,
22 things that you can share, people that you find that you can befriend
23 is probably extremely limited. I think that him being guarded

1 narrowed that even more. It just served to isolate him. The fact
2 that -- obviously, I was a therapist but he was still guarded with
3 me. I mean, it was one of those things where you just go who can
4 this guy share with? Who does he have to kind of share feelings or
5 whatever? I mean, I had peers that I contacted throughout the
6 country. We can get on the phone and call. And I don't know that he
7 had folks like that. So it just served to isolate him even more.

8 Q. Now, after this, meeting you diagnosed the occupational
9 problem, why did you do that?

10 A. Again, I think any time that it's the focus of treatment or
11 any -- the issue is directly related to his work environment. The
12 work environment started to become more of an issue as far as what
13 was going on with him, I mean, how isolated he felt. So that's why
14 we identified it as an issue or a problem.

15 Q. Doctor, you next saw him on 6 April 2010. Is that correct?

16 A. Yes.

17 Q. And again, did anyone from the chain-of-command share any
18 information with you prior to this meeting?

19 A. Not that I recall.

20 Q. Here you indicated again in your notes that PFC Manning was
21 continuing to have difficulty in the workplace. Was this for the
22 same reasons as before or were there any other factors?

1 A. The best of my recollection, I would think that it was the
2 same things that were going on, the continuation.

3 Q. And you concluded that PFC Manning remained focused on
4 maintaining his behavior and expecting a different outcome.

5 A. Right.

6 Q. What did you mean by that?

7 A. I think one of the things that we often again, I think it's
8 a personality style. There's a flexibility that comes with
9 personality and we often talk about being able to be flexibility and
10 say can you see something from somebody else's point of view, can you
11 understand why they would respond that way, can you put yourself in
12 their shoes, basically. And, at that point, it seemed that PFC
13 Manning was unable to kind of do that, to be flexible, to have this
14 flexible personality style. I think that's why.

15 Q. Doctor, let's talk up now about your evaluation on 8 May.
16 That was your next evaluation of PFC Manning. Is that correct?

17 A. Yes. Yes, it was.

18 Q. And that was at 0130 in the morning?

19 A. Yes.

20 Q. Do you know why there was a 32-day gap between your 6 April
21 session and your 8 May session?

22 A. I know that, at that point, I went on mid-tour leave and I
23 had scheduled my commander to follow-up with PFC Manning.

1 Q. Do you know if that happened?

2 A. Based on my notes, I don't believe it did.

3 Q. What type of evaluation was your 8 May meeting with PFC
4 Manning on 0130?

5 A. This one would have been, I think, in conjunction with a
6 command-directed evaluation.

7 Q. And who brought PFC Manning to you in order to be seen by
8 you?

9 A. My notes says his NCOIC which would have been Master
10 Sergeant Adkins.

11 Q. Now, were you working at that time, at 0130 in the morning?

12 A. No, I was sleeping.

13 Q. So they -- I guess they woke you up to meet with PFC
14 Manning?

15 A. That's correct.

16 Q. Prior to this meeting, did you speak with Master Sergeant
17 Adkins?

18 A. Not that I recall. Not in a professional manner. It may
19 have been in passing.

20 Q. Doctor, I'm handing you Defense Exhibit NNN and Defense
21 Exhibit MMM. If you would, just glance at both of those for a
22 moment.

23 **[There was a brief pause while the witness reviewed the exhibits.]**

1 Q. Doctor, did Master Sergeant Adkins -- I'm retrieving both
2 exhibits from the witness. Did Master Sergeant Adkins share the
3 April 2010 memorandum with you at any time prior to 8 May 2010?

4 A. I don't believe so.

5 Q Did Master Sergeant Adkins share the 8 May 2010 memorandum
6 with you when he brought PFC Manning to you?

7 A. Yes, I think he may have been given both of those at the
8 same time.

9 Q. Was that on 8 May?

10 A. I believe so.

11 Q. And at the time that he gave these to you, did he talk to
12 you at all?

13 A. I believe, at that point, we were able to talk because
14 there was command directed evaluation.

15 Q. Do you recall that conversation with Master Sergeant
16 Adkins?

17 A. Typically, those kinds of issues I don't share a whole lot
18 just based on I don't want to break someone's confidentiality if I
19 don't have to. So I think I let him do all the talking which was
20 basically regurgitating what he had written out.

21 Q. Did you have any questions for him based upon what he
22 brought out?

1 A. Not that I recall. At that point, I think that we just
2 talked about what the next steps would be.

3 Q. What was your reason for seeing PFC Manning at 0130 on 8
4 May?

5 A. His NCOIC brought him to see me because he had struck
6 another -- a fellow Soldier.

7 Q. And how long did that meeting last with PFC Manning?

8 A. I would say probably between an hour and 2 hours at that
9 point.

10 Q And what topics did you discuss during that timeframe?

11 A. I think we discussed a lot of different things at that
12 point and what was going on, how he ended up there, how he felt up
13 until that point. I know in my notes here he talks about
14 deteriorating over the last couple of weeks and, at that point, he
15 had no-showed for my commander who was filling in for me while I was
16 gone. He talked about his relationship recently ending, no support
17 of his family and friends. He feels that he's in a bad way and this
18 is causing much pain and confusion. He was going it alone and really
19 felt alone and he talked about an e-mail that he sent to me that
20 Thursday prior to this issue.

21 Q. Did you receive that e-mail?

22 A. I remember specifically -- I don't remember specifically
23 when I received it. I know that there was some kind of delay. I

1 remember specifically trying to figure out -- he said that he sent it
2 on a specific day, but for some reason I didn't get it for several
3 days. And so -- that's what I remember about the e-mail.

4 Q. We'll talk about the e-mail in a moment. Did he also share
5 with you, at that point, any gender issues?

6 A. I think we had talked about -- because of what was in the
7 e-mail, we talked about some gender issues at that point.

8 Q. And did you make any additional diagnosis based upon the
9 conversation?

10 A. At that point, I think it was gender identity disorder. He
11 met the criteria.

12 Q. Why did you diagnose gender identity disorder?

13 A. Again, the criteria for it. Without having the DSM in
14 front of me, I'll kind of wing it. Basically, he -- all the criteria
15 needed to meet that diagnosis, at that point, he was sharing enough
16 with me to suggest that he met the diagnosis.

17 Q. Now, I want to show you that e-mail. I'm showing you
18 Defense Exhibit QQQ. That e-mail actually also has other exchanges.
19 But can you look down to the e-mail from PFC Manning. Is that the
20 same e-mail that he sent to you?

21 A. It looks to be so.

22 Q. Did the e-mail that he sent to you have a photograph
23 attached to it?

1 A. Yes.

2 Q. And can you look to the last page of that exhibit?

3 A. Yes.

4 Q. Does that look to be the same photograph?

5 A. Yes.

6 Q. I am retrieving Defense Exhibit QQQ from the witness. How
7 was, from your perspective, the gender identity issue impacting PFC
8 Manning?

9 A. Well, I think being in the military and having a gender
10 identity issue does not exactly go hand-in-hand. I think it further
11 serves to isolate to create this issue with kind of defining who you
12 are as a person, kind of figuring out what role you play in the world
13 and how do you fit into this one that you're in. At that time, the
14 military was not exactly friendly toward the gay community or anybody
15 that held views as such. So I don't know that it's friendly now
16 either, but it seems to be getting toward that point so.

17 Q. What sort of support mechanisms did he have within the
18 military to deal with this issue?

19 A. Really, none. There was nothing available other than
20 somebody like me and, again, he was taking a chance with that.

21 Q. Why do you say that?

22 A. Because, at that point, being homosexual was an article --
23 I forget what the article was, but it was an UCMJ violation. So to

1 be openly gay was a UCMJ violation. You could be court-martialed and
2 put out of military. So to share that with anybody was an extremely
3 difficult thing.

4 Q. And how did not having any support mechanisms, from your
5 perspective, impact PFC Manning?

6 A. Again, I think going back to and looking at being deployed
7 in general is difficult for anyone. You're away from -- you're
8 thousands of miles from your support base, if you have one. I think
9 for him specifically there was little to no support base there to
10 begin with. You put him in this environment, this kind of hyper
11 masculine environment, if you will, and with little supports and few
12 coping skills, the pressure would have been difficult, to say the
13 least. It would have been incredible.

14 Q. Now, I want to talk about your second evaluation on 8 May.
15 You saw him later that same day. Is that correct?

16 A. I believe so.

17 Q. If you look to the next 8 May, I believe it was 0855.

18 A. Okay.

19 Q. Do you see that, Doctor?

20 A. I see a 0854. Am I looking in the wrong spot?

21 Q. 8:54 would be close enough.

22 A. Okay.

1 Q. With regards to that meeting, what type of meeting was
2 that?

3 A. Just, again, a scheduled appointment, a regular therapy
4 session.

5 Q. How long did you meet with PFC Manning on that day?

6 A. Between 45 and 50 minutes.

7 Q. You indicated in your notes that PFC Manning felt much
8 better after sharing his identity issue with you. What do you base
9 that note -- that belief upon?

10 A. I think his affect was different. I mean, before it was,
11 you know, we would share kind of a smile or a laugh, but it was
12 sometimes forced and I think at that point he had finally felt much
13 more comfortable just having it out, that it's kind of like if you
14 share any secret, you know, it's a shared -- it's no longer a secret,
15 you shine light on it and it's done, it's out there and I think that
16 was a big relief for him to be able to share that.

17 Q. Would you expect an individual such as -- in the position
18 such as PFC Manning to feel better after sharing something like a
19 gender identity issue?

20 A. Yeah. Again, it's going to be individual. I think -- I
21 can only assume -- I mean, I wouldn't want to assume, but it appeared
22 to me, based on how he was responding, that there was some kind of an

1 affect lift or a generation of a positive feeling based on that
2 revelation.

3 Q. Now, you also met with PFC Manning on several occasions
4 during May. We won't go through those, but there are other meetings
5 on 10 May, 12 May, 13 May, 15 May, 19 May and 26 May. A couple of
6 those are no-shows, but a majority of them you actually sat down with
7 PFC Manning. Is that correct?

8 A. Yes.

9 Q. And what was your treatment plan for PFC Manning based upon
10 the disclosures that he made to you?

11 A. I think after the -- after he hit his fellow Soldier, we --
12 again, in talking with -- I think it was myself and Captain
13 Critchfield who was the behavioral health officer, discussed the
14 plan, where do we go from here, you know, what might be best. We sat
15 down with them and talk about chaptering him out at that point,
16 looking at what was in his best interest as far as being able to keep
17 his -- not only his benefits, but his security clearance, things like
18 that, so that he could go on and have a productive life.

19 Q. And do you know why, at that point, a chapter would be
20 pursued?

21 A. I think we kind of identified at that point this was a
22 long-term issue, something that would be better served outside of the
23 military and, again, I'm guessing based on my remembrance.

1 Q. Doctor, I'd like to ask you a few questions about gender
2 identity. At the time, it was gender identity disorder and I believe
3 now it's gender dysphoria?

4 A. Dysphoria, yes, sir.

5 Q. Would you agree that gender is a core issue of identity for
6 a person?

7 A. Absolutely.

8 Q. And why is that?

9 A. It's, again, how we define our world and what role we serve
10 in it at this point anyways. I think may be some point in the future
11 gender won't matter as much. At this point, it's still very much a
12 defining part of who we are and how we function.

13 Q. And would a gender identity -- now, let's say gender
14 dysphoria, impact the ability of a person in their daily life?

15 A. I guess it depends. Again, depending on the individual.
16 The very fact that there's a diagnosis of gender identity dysphoria
17 would suggest that there's some impact on their life. Having a
18 gender identity issue certainly can be impactful in that they're
19 still coming to grips with that process, who they are and how will
20 this be accepted. So certainly it can be an extremely difficult --
21 extremely difficult process at best.

22 Q. And could this process cause somebody to feel alone?

23 A. Absolutely.

1 Q. Could it cause somebody to struggle to fit within society?

2 A. Absolutely.

3 Q. And could it cause someone to struggle in their work
4 environment?

5 A. Absolutely.

6 Q. Given the gender identity disorder that you diagnosed,
7 could PFC Manning have openly sought treatment within the military?

8 A. I guess it's a difficult question to answer. Openly sought
9 treatment, at that point and I don't believe now based on the way the
10 UCMJ is there would never be a time that he would be able to be
11 openly female. So seeking treatment for that again, the treatment
12 would be helping adjust to that. The treatment is not treating that
13 like it's a disorder. It's helping them be comfortable with that
14 process. So that would be difficult to do in the Army and in the
15 military.

16 Q. Does the fact now that you understand that PFC Manning was
17 dealing with a gender identity issue explain, in hindsight, the trust
18 issues and inability to open up with you that you saw from pretty
19 much the December timeframe forward?

20 A. I think it would be hard to say that that was the only --
21 could be the only issue. There could be lots of things. But
22 certainly that would have -- in my mind, that could have been a very
23 big one, a big reason for that.

1 Q. Did the fact that PFC Manning have to deal -- had to deal
2 with this issue while being deployed have an impact on him?

3 A. I would assume that, again, under the best circumstances,
4 people who have those kinds of issues, people who are dealing with
5 that process is extremely difficult and that's under the best
6 circumstances. I mean, we have a person that's in a deployed
7 environment, again, in a working -- again, based on what I saw and
8 what I understood about his experience, almost an openly hostile
9 environment just based on who he was without the gender identity
10 would have made it extremely difficult. I can't imagine. I mean,
11 it's hard for me to put myself in that place.

12 Q. Have you had an opportunity, Doctor, to review PFC
13 Manning's mental health records before he deployed to Iraq?

14 A. I have now. I did not before.

15 Q. And what conclusions, if any, did you reach after reviewing
16 these documents?

17 A. That clearly there was a pattern of problematic behavior
18 issues, things that were going on that would have been red flags I
19 think prior to his deployment. Again, I wasn't able to reach back in
20 theater and look at those records. So I didn't get to see those
21 records until after all of this.

1 Q. Based upon your interaction with the 2nd BCT, did you
2 notice any issues regarding how they selected who should remain
3 deployed?

4 A. I think -- well, I can only speak to what my experience was
5 with the 2nd BCT and I would say it wasn't exactly positive.

6 Q. Why would you say that?

7 A. I would say that my experience with them, they seem to --
8 again, my role is to recommend, get recommendations to the
9 leadership. That's all I do. They ultimately make that decision.
10 Some of the recommendations that I have made they have difficulty
11 kind of understanding and so I had to do more than my fair share of
12 work to help them understand and I had some experiences where I
13 questioned why they would want to leave somebody in the position with
14 the issues that they had.

15 CDC[MR. COOMBS]: Thank you, Doctor. No further questions.

16 MJ: Cross-examination?

17 ATC[CPT VON ELTEN]: Your Honor, may we have a 15-minute comfort
18 break?

19 ATC[CPT MORROW]: Actually, Your Honor, let's make that 20
20 minutes. We need a comfort break as well but we weren't aware that
21 Captain Worsley was testifying as an expert. So I'm just reviewing
22 Appellate Exhibit 344 and we just ask for 20 minutes.

23 MJ: All right. Any objection?

1 CDC[MR. COOMBS]: No objection, Your Honor.

2 MJ: Court is in recess until 20 minutes after 11:00.

3 [The court-martial recessed at 1101, 14 August 2014.]

4 [The court-martial was called to order at 1122, 14 August 2013.]

5 MJ: Court is called to order. Let the record reflect all
6 parties present when the court last recessed are again present in
7 court. Just for the record, prior to the court recessing, I
8 neglected to advise the witness not to speak with anyone over the
9 course of the recess. I realized that and called one member of the
10 prosecution and one member of the defense and asked that the witness
11 be so advised. Was that accomplished?

12 CDC[MR. COOMBS]: It was, Your Honor.

13 MJ: Thank you. Is the government ready to proceed?

14 ATC[CPT von ELTEN]: Yes, Your Honor.

15 MJ: Proceed.

16 **CROSS-EXAMINATION**

17 **Questions by the assistant trial counsel [CPT von ELTEN]:**

18 Q. Captain Worsley, for the majority of the time you treated
19 PFC Manning, his conditions didn't stand out to you, did they?

20 A. Say it again. I don't understand.

21 Q. Did his conditions stand out to you as being -- making him
22 unfit for service?

23 A. Not initially, no.

1 Q. So during the timeframe you treated him from December up
2 until early May, you consistently found he was fit for duty?

3 A. Yes.

4 Q. And so you released him without limitations?

5 A. No. After the May command directed evaluation he was
6 released with limitations.

7 Q. But before the May command evaluation ----

8 A. It was ongoing psychotherapy, yes.

9 Q. And that was normal?

10 A. Yes.

11 Q. And it was also normal -- was it also normal for the
12 command not to be apprised of every single evaluation you gave a
13 Soldier?

14 A. As long as they weren't command directed evaluations, I
15 didn't have any -- I shouldn't have had any contact with anybody's
16 command. The commander --- I'm sorry, I just -- maybe you -- do you
17 want to clarify or do you want me to clarify?

18 Q. No, that's fine.

19 A. On a command directed evaluation, the command is
20 specifically involved and they get feedback from the clinician.
21 Psychotherapy, just in general, voluntarily there's no feedback given
22 to any of the command.

23 Q. And there are procedures for command evaluation?

1 A. That's correct.

2 Q. What are they?

3 A Typically, there has to be an identifier. It would be a
4 threat to self or threat to others. Psychotic breaks. Something
5 very specific or unexplainable. The command then contacts the
6 clinician and discusses it, asks if it is an appropriate referral.
7 We would then say yeah or nay. If we say yeah, then they escort the
8 person to us. We do an evaluation and give specific feedback to the
9 command about that evaluation.

10 Q. The majority of PFC Manning's evaluations were voluntary?

11 A. Maybe I'm just understanding you. What I did was therapy,
12 psychotherapy. The evaluations were all command directed.

13 Q. Every single command directed -- Every evaluation you did
14 for PFC Manning was command directed?

15 A. Evaluation, yes. Again, I don't want to ----

16 Q. So he was escorted every single time to the procedure?

17 A. No, no, no.

18 Q. So it wasn't a command directed evaluation, right?

19 A. I guess what I'm saying is therapy, maybe you're saying is
20 evaluation. I'm sorry, I don't mean to be difficult. Command
21 directed evaluations are always somebody is with him and we give
22 feedback. Regular therapy or psychotherapy, ongoing therapy is
23 there's no -- he walks into the office and walks out of the office.

1 Q. So most of the visits were not evaluations then?

2 A. That's correct.

3 Q. Between December -- 24 December and 8 May they were not
4 evaluations?

5 A. Between 30 December and 8 May, yeah.

6 Q. 30 December for you?

7 A. Right. The majority of them were just regular sessions.

8 Q. But you did conduct an evaluation after the assault
9 committed by PFC Manning?

10 A. That's correct.

11 Q. And as part of this evaluation, you made a recommendation?

12 A. That's correct.

13 Q. And that recommendation was followed by the command?

14 A. As far as I know, yes. Yes.

15 Q. The unit did support PFC Manning's getting mental health
16 help where he needed it, right?

17 A. Yes. As far as I know, yes.

18 Q. Master Sergeant Adkins took an interest in making sure PFC
19 Manning was receiving help where he thought he needed it?

20 A. As far as I know, right. There were those times, again and
21 it's based on my recollection, I'm not sure, there were those spaces
22 where he didn't -- 30 to 40 days, I think, but I don't know why.

1 Again, it could have been for whatever reasons. But based on what my
2 experience was, they supported him getting mental health help.

3 Q. Voluntarily therapy doesn't require follow-up all the time,
4 does it?

5 A. Not always.

6 Q. It's the patient's choice to attend?

7 A. Absolutely.

8 Q. What was the confidentiality disclaimer you gave to your
9 patients?

10 A. Typically, the same confidentiality disclaimer I give to
11 everybody. Everything that you say -- can I just give you the spiel?

12 Q. Please.

13 A. Everything that you say in here stays in here with a few
14 exceptions. One of those is if you reveal any intent to harm
15 yourself or to kill yourself or kill somebody else. You reveal any
16 ongoing abuse or neglect of a child or elderly person or you share
17 with me some violation of UCMJ, that needs to be reported. Those are
18 the kinds of things that I would ----

19 Q. Did you give that disclaimer to PFC Manning?

20 A. Yes.

21 Q. Did he understand it?

22 A. As far as I could tell, yes.

1 Q. Did you have Soldiers discuss their sexual orientation
2 during therapy sessions with you?

3 A. Yes.

4 Q. Were some of those Soldiers junior enlisted?

5 A. Yes.

6 Q. Did some junior enlisted Soldiers tell you they were gay?

7 A. Eventually.

8 Q. Did you report to their command that they were gay?

9 A. No.

10 Q. So you held it in confidence?

11 A. Yes.

12 Q. As per your -- the confidentiality talk you gave to your
13 patients?

14 A. Yes.

15 Q. Retrieving Prosecution Exhibit 204 for Identification. Do
16 you recognize this note, Captain Worsley?

17 A. I'm sorry. Say it again.

18 Q. Do you recognize that?

19 A. It's a note dated 24 December written by Captain Leibman.

20 Q. When you were deployed in Iraq at FOB Hammer, did you have
21 access to medical records?

22 A. Yes.

1 Q. Did you have access records that were generated at FOB
2 Hammer?

3 A. Yes.

4 Q. Is this one of those records?

5 A. Based on what I can see.

6 Q. You would have been reviewed this record as part of your
7 treatment of PFC Manning?

8 A. Yes.

9 ATC[CPT VON ELTEN]: Your Honor, the United States offers
10 Prosecution Exhibit 204 for identification into evidence.

11 MJ: Any objection?

12 CDC[MR. COOMBS]: No objection, Your Honor.

13 MJ: May I see it, please. Prosecution Exhibit 204 for
14 identification is admitted. Do you want the witness to have it?

15 ATC[CPT VON ELTEN]: Yes, ma'am.

16 Q. Please take a moment to review it, Captain Worsley, the
17 objective section. I think it's on the second page.

18 A. Okay.

19 Q. PFC Manning was hypersensitive, correct?

20 A. Yes, he was very sensitive.

21 Q. He was hypersensitive to criticism, correct?

22 A. Yes.

1 Q. And he was hypersensitive to criticism from others,
2 correct?

3 A. Yes.

4 ATC[CPT von ELTEN]: Retrieving Prosecution Exhibit 204, Your
5 Honor. I'm retrieving Defense Exhibit VVV, Victor-Victor-Victor.
6 I'm handing it to the witness.

7 Q. Would you please turn to the notes for 16 February 2010.
8 What is follow-up time then?

9 A. I'm sorry, the follow-up time?

10 Q. The amount of time for follow-up for the next appointment
11 stated in the record?

12 A. Two weeks.

13 Q. Why was it 2 weeks?

14 A. To be honest with you, I can't recall.

15 Q. Is 2 weeks the amount of time that goes between therapy
16 sessions for somebody in a serious condition?

17 A. Not typically.

18 Q. So it's for less serious -- It's the amount of time for a
19 less serious condition?

20 A. It depends, I guess. I can't answer that question.
21 Typically, if somebody was -- had a serious condition where you'd
22 want to follow up with them more frequently.

23 Q. Would you please turn to 6 April 2010?

1 A. Okay.

2 Q. What does the note say about PFC Manning's empathy?

3 A. I'm sorry, is it a specific area? There is a bullet point.

4 Is that what you're talking about?

5 Q. What does it say?

6 A. There's bullet points down below, the history of present

7 illness. It says anxiety persistent or a worry continuously for a

8 month or more, interfering with work, energy, inability to express

9 warmth and tenderness. Paying excessive attention to detail.

10 Inability to communicate effectively. Lack of balance between

11 leisure activities and work. Is that where you're talking?

12 Q. One moment, please. In discussing this note, how could PFC

13 Manning not put himself in the shoes of others?

14 A. Excuse me? I'm sorry, I don't understand.

15 Q. Based on the content of that note, do you think PFC Manning

16 could put himself into the shoes of others?

17 A. Again, I think I talked earlier about it suggesting a

18 personality style, a rigid personality style, inability to be

19 flexible.

20 Q. Does a rigid personality empathize well?

21 A. Not typically. Empathy would suggest that they're able to

22 kind of put themselves in somebody else's shoes to feel what they're

23 feeling.

1 Q. That would suggest flexibility?

2 A. Flexibility.

3 Q. Not rigidity?

4 A. That's correct.

5 Q. Did PFC Manning ever deny his role in his problems?

6 A. I would say the easy answer to that is no because we didn't
7 discuss them.

8 Q. Please turn to the note on 26 May 2010. Look under the
9 history of present illness.

10 A. Okay.

11 Q. What does it say about PFC Manning's acknowledgement of the
12 role -- of his role in his problems?

13 A. Let's see. I think this is what you're -- later in the
14 session he began discussing his history of disappointments. We
15 discussed various variables in his role in those disappointments. As
16 a Servicemember, he continues to have difficulty understanding his
17 role and denies same.

18 Q. So he denied his role in his problems?

19 A. Right. I think it was -- right. It was understanding what
20 the role was.

21 Q. So he would have been blamed other people, then, for his
22 problems if he's not blaming himself?

1 A. I think it was -- again, it was the flexibility or
2 inability to be flexible to kind of see his involvement with other
3 people and how that kind of came to fruition.

4 Q. But he's not blaming himself?

5 A. I would assume not. I mean, if we're talking about
6 specifics, I don't know what blaming himself for just in general?

7 Q. Just in general for his problems.

8 A. I don't -- again, I think it just depends on the context.

9 Q. He's not acknowledging his role, though?

10 A. Right. Okay.

11 Q. Is that a yes?

12 A. Again, to me, it's based on context. I don't know what we
13 were talking about on this one. Again, I can give you a general
14 answer but, I mean, it just would be kind of generalized. So we can
15 talk about his history of disappointments and roles. I can't
16 remember specifically what those disappointments would be. I don't
17 mean to be evasive. I'm sorry.

18 Q. Did PFC Manning believe he was special?

19 A. I don't think we ever talked about "special."

20 Q. We'll come back to that. Earlier, you testified about PFC
21 Manning's connection with others while deployed?

22 A. Yes.

1 Q. Did PFC Manning ever tell you that people reached out to
2 him?

3 A. Not -- I mean, other than people he worked with, yes.

4 Q. Did PFC Manning tell you that people offered to go to meals
5 with him?

6 A. No.

7 Q. Did PFC Manning tell you that he was offered coffee?

8 A. No.

9 Q. Did PFC Manning tell you that other Soldiers went on walks
10 with him?

11 A. No.

12 Q. Did PFC Manning tell you that other Soldiers offered to go
13 to the gym with him?

14 A. No.

15 Q. Did PFC Manning tell you that he went on smoke breaks with
16 other people?

17 A. No -- well, smoke breaks, maybe. But, I mean.

18 Q. So PFC Manning was describing his sense of things to you.
19 He was leaving a lot of things out then?

20 A. Yeah, most people do.

21 Q. In addition to you as a resource, PFC Manning had chaplains
22 available also?

23 A. Absolutely.

1 Q. I'm retrieving Prosecution Exhibit 30.

2 MJ: Are you standing for a reason?

3 CDC[MR. COOMBS]: Yes, Your Honor. I would object ----

4 MJ: Hold on just a second.

5 CDC[MR. COOMBS]: ---- to relevance, but PE 30 apparently is

6 the Adrian Lamo chats?

7 MJ: Yes.

8 CDC[MR. COOMBS]: I just object to relevance.

9 MJ: Overruled. The issue of who PFC Manning had to communicate

10 with has been raised.

11 Q. Did PFC Manning like his fellow Soldiers?

12 A. I don't know that we ever talked about like or dislike.

13 Q. Would you turn to Page 7, please?

14 A. Okay. Did you want me to read it?

15 Q. Let me make sure of the pages are -- He talks about himself

16 and he also talks about fellow Soldiers?

17 A. I'm one-third of the way there.

18 MJ: Captain von Elten, why don't you point him out.

19 Q. The trigger happy line.

20 A. I'm sorry.

21 Q. Right here and right here. There's another one I'm going

22 to ask you about in a second right there.

23 A. Okay.

1 Q. How does PFC Manning describe his fellow Soldiers?
2 MJ: Yes?
3 CDC[MR. COOMBS]: I object to the basis of having this IM chat
4 conversation taken out of context, as usual what the government does
5 with statements in this PE 30. If the government want to pose a
6 hypothetical, that might be appropriate for this witness then as an
7 expert then to say assuming these facts were true. But here he is
8 cherry picking a particular statement out of context which this
9 expert has never even seen.
10 MJ: Well, I'm going to allow the government to discuss
11 statements, but not having the witness read them and then ----
12 ATC[CPT von ELTEN]: I just want to make sure we're talking about
13 the right statements so I can ask him what his opinions about it.
14 MJ: Why don't you -- sustained in part. You take the exhibit,
15 you ask the witness a question about a particular statement and let
16 him opine.
17 ATC[CPT VON ELTEN]: Retrieving Prosecution Exhibit 30.
18 Q. Dr. Worsley, if a Soldier were to describe his fellow
19 Soldiers as ignorant rednecks ----
20 A. Yes.
21 Q. ---- what would that mean? What is your opinion about what
22 that means he thinks his Soldiers -- fellow Soldiers?

1 A. Again, it depends. I mean, I can't say that I haven't
2 called my folks that I worked with in the Marine Corps rednecks. It
3 certainly is disparaging for whatever reason. I know -- I think when
4 I did that, I was probably frustrated in some way.

5 Q. What if the Soldier also describes himself as being super
6 intelligent?

7 A. It's a bit narcissistic or can be considered to be a bit
8 narcissistic but ----

9 Q. Why is it narcissistic?

10 A. Well, I guess unless you've truly been defined as super
11 intelligent. Maybe if I had been tested and my IQ was 130 plus, I
12 would be defined as super intelligent. But not knowing that,
13 defining yourself as super intelligent can be considered
14 narcissistic.

15 Q. Is defining yourself as being better than someone else
16 narcissism?

17 A. It's a part of that process, sure.

18 Q. So if a Soldier describes himself as being super
19 intelligent ----

20 A. It's a small piece of that, but, certainly yeah. I mean --
21 --

22 Q. It's a narcissistic trait?

23 A. Sure.

1 Q. Do narcissists believe they're special?

2 A. Narcissism is a difficult one in that there's really an
3 underlying process of inadequacy that's based on narcissism. So it's
4 a defense to the inadequacy, they develop this "I am better than" or
5 "I'm more special than."

6 Q. If a Soldier is narcissistic, would he necessarily want to
7 associate with other Soldiers around him that he believed were
8 beneath him?

9 A. Again, it depends. Certainly there are some people who are
10 narcissistic and they want to be around people so they can feel
11 better about themselves because they tell themselves all the time
12 that they're better than those people. So it just depends. It's
13 really an individual process. So it's hard to say specifically that
14 this would happen every time. Does that makes sense?

15 Q. Would it make it more likely that he would -- if a Soldier
16 were narcissistic, would it make it more likely he would reject
17 invitations?

18 A. Reject invitations?

19 Q. To go to dinner, for instance?

20 A. It depends. Again, individually, if there was something
21 that was reinforcing about that to the individual, if it helped prop
22 themselves up, give themselves -- reinforce that narcissism, if you
23 will, or those good feelings, then they probably wouldn't turn to

1 them. They would probably want to be a part of those things as much
2 as they could. Again, it's an individual, some people will, some
3 people wouldn't. It just depends on how that process works for them.

4 Q. Do people typically hang out with people they consider to
5 be beneath them?

6 A. I don't know.

7 Q. In your professional opinion?

8 MJ: He doesn't know. Move on.

9 ATC[CPT von ELTEN]: Nothing further.

10 CDC[MR. COOMBS]: No redirect, Your Honor.

11 MJ: Captain Worsley, I have a few questions.

12 WIT: Yes, ma'am.

13 **EXAMINATION BY THE COURT-MARTIAL**

14 **Questions by the military judge:**

15 Q. You testified earlier that you had no left-right seat with
16 -- was it Captain Leibman?

17 A. Captain Leibman, yes, ma'am.

18 Q. Were you there at FOB Hammer at the same time?

19 A. Yes, ma'am. There's about I think there was an 8 or 9-day
20 overlap. So we were there at the same time, yes.

21 Q. Then I guess I'm confused as to why there was no left-right
22 seat.

1 A. I was confused as well, ma'am. I guess, one, certainly it
2 would have been my inexperience. It was first time deploying as a
3 psychologist in the Army. I didn't know what to expect. Secondly, I
4 don't think Captain Leibman kind of knew how to do the left seat-
5 right seat. And at that point, it just didn't happen. I kind of
6 went about -- actually, I ended up touring around more with the staff
7 sergeant who was this mental health technician than I did with
8 Captain Leibman. I'm going to assume you are not familiar, but you
9 probably are with what happens. Typically, what happened would be I
10 would come in, he would share with me all of this stuff, what was
11 ongoing, what was pertinent and important. He would take me around
12 and introduce me to all of the company commanders, to the battalion
13 and brigade commanders. None of that happened.

14 Q. Were you at FOB Hammer on the 24th of December?

15 A. I can't remember exactly when we got there. It was a good
16 possibility we were. Yes, ma'am.

17 Q. Were you present during Dr. Leibman's ----

18 A. No, ma'am.

19 Q. ---- appointment with PFC Manning?

20 A. No, ma'am.

21 Q. Just to make sure I'm clear, from your -- you distinguish
22 between a command directed evaluation and psychotherapy.

23 A. Yes, ma'am.

1 Q. Is the -- Was the only command directed evaluation you had
2 of PFC Manning on the 8th of May 2010?

3 A. I believe so. Yes, ma'am.

4 Q. When you have a command directed visit and you've been
5 treating the person before ----

6 A. Yes, ma'am.

7 Q. ---- for psychotherapy, what are the confidentiality rules
8 for that? Do you disclose anything to the chain-of-command on what
9 happened ----

10 A. What happened in the past?

11 Q. Yes.

12 A. No, ma'am. The assessment is the focus on that assessment
13 that day at that time. This is the issue that's been defined by the
14 command as problematic for whatever reason. If we assessed that
15 behavior, that issue, and we give the command feedback based on that,
16 certainly you can't do -- and there is no way to do an evaluation
17 without taking into account the history, but based on that
18 assessment, then that's the feedback that we give to the command.

19 Q. Do you remember, sitting here today, these sessions that
20 you had with PFC Manning?

21 A. Just based on notes. There's some stuff that jogs some
22 memories in there. Certainly, this was a more high profile case than

1 the rest of my cases. So there's things that I remember, but
2 certainly I don't remember all details.

3 MJ: Any follow-up questions based on that?

4 CDC[MR. COOMBS]: No, Your Honor.

5 ATC[CPT VON ELTEN]: I'm just returning Prosecution Exhibit 30.
6 **[The witness was temporarily excused, duly warned, and withdrew from**
7 **the courtroom.]**

8 MJ: Mr. Coombs, looking at the time and the fact we might have
9 a longer period down the road, do you think that we should go into
10 the direct of the next witness?

11 CDC[MR. COOMBS]: No, Your Honor. I think it might be a good
12 -- I know the government needed some extra time for the next witness
13 as well. So depending upon how much time the government needed, we
14 can call the next witness at that point.

15 ATC[CPT MORROW]: Well, the time would be for after the
16 witness testified on direct. Can I have a moment, Your Honor?

17 MJ: Yes.

18 **[There was a brief pause while the assistant trial counsel consulted**
19 **with co-counsel.]**

20 MJ: That's my point. If the government is going to need an
21 extended recess after the direct, I really don't want to take two of
22 them.

23 ATC[CPT MORROW]: I agree, Your Honor.

1 CDC[MR. COOMBS]: Ma'am, the issue is the direct will probably
2 last more than an hour. The lunch they have available here is from
3 12:00 to 13:30. So would the Court would like to go with the direct
4 to a certain period of time and then break or do a quick lunch and
5 then pick up with the direct?

6 MJ: Well, government, any issues if we do a half-an-hour lunch
7 and then we pick up again with the direct and then do the extended
8 recess after that?

9 ATC[CPT von ELTEN]: That's exactly what I propose.

10 MJ: Any issues with that, Mr. Coombs?

11 CDC[MR. COOMBS]: No issues with that, ma'am.

12 MJ: So if we reconvene, then, at 1230, does that work for
13 everyone?

14 CDC[MR. COOMBS]: Yes, Your Honor.

15 MJ: All right. Court is in recess then until 1230.

16 **[The court-martial recessed at 1154, 14 August 2013.]**

17 **[The court-martial was called to order at 1235, 14 August 2013.]**

18 MJ: Court is called to order. Let the record reflect all
19 parties present when the court last recessed are again present. Are
20 we ready to proceed?

21 ATC[CPT von ELTEN]: Yes, Your Honor.

22 CDC[MR. COOMBS]: Yes, Your Honor.

23 MJ: Please call your next witness.

CDC[MR. COOMBS]: Your Honor, the defense calls Commander David Moulton to the stand.

COMMANDER DAVID MOULTON, U.S. Navy Reserves, was called as a witness for the defense, was sworn, and testified as follows:

DIRECT EXAMINATION

Questions by the assistant trial counsel [CPT von ELTEN]:

Q. For the record you are Commander David Moulton of Expeditionary Medical Force, Great Lakes?

A. Correct.

Questions by the civilian defense counsel [MR. COOMBS]:

Q. Commander Moulton, I want to start off by just asking you, your specialty. Are you a forensic psychiatrist?

A. I am.

Q. And are you currently on Active Duty?

A. I am a Reservist at present. I switched over with the Reserves last July, 2012, which is about a year after I became engaged with this case.

Q. And how long were you on active duty before switching over to be a Reservist?

A. 16 years total including my medical training.

Q. You mentioned that you did this roughly about a year after being involved in this case. How did you become involved in this case?

1 A. So, I was part of Walter Reed and part of the Forensic
2 Behavioral Sciences Division at Walter Reed working under Colonel
3 Rick Malone and he assigned me to the case.

4 Q. And what was the purpose of your involvement in the case?

5 A. To participate with the defense and to help the Court
6 understand some of the mental health implications of this case.

7 Q. Doctor Moulton, are you prepared today to tell us about
8 your conclusions based upon your work in this case?

9 A. I am.

10 Q. Let's begin by finding a little bit more about yourself.
11 You went to Brigham Young University for your undergraduate degree?

12 A. That's correct.

13 Q. And you obtained a Doctorate of Medicine from the Uniform
14 Services University?

15 A. Uniform Services Health Sciences in Bethesda, yes. I
16 graduated in 2000.

17 Q. And when did you obtain your doctorate degree?

18 A. In 2000. I graduated in 2000.

19 Q. Where did you do your psychiatric -- your psychiatry
20 internship and residency?

21 A. I was at the joint program between Walter Reed Army Medical
22 Center and then National Naval Medical Center, they are since

1 combined. It's called the National Capital Consortium is how they
2 list the residency.

3 Q. And can you tell us what was involved in your internship
4 and residency training?

5 A. So, internship is a 12-month period. It's about 50 percent
6 split psychiatry and general medicine. It's in preparation to serve
7 a general medical officer if needed by the Navy but also to provide
8 further training in internal medicine and then 6 months in
9 psychiatry, that's followed by a 36-month post-internship residency
10 program. So, it's a 4 year total receiving general training and
11 general psychiatry mostly focused on adult psychiatry.

12 Q. And have you obtained your board certification in
13 psychiatry?

14 A. I did.

15 Q. And when did you accomplish that?

16 A. 2006.

17 Q. And can you explain to the Court what that entails?

18 A. So, at the time that was a two-step process, now they've
19 combined it. But there's a written examination by the American Board
20 of Psychiatry and Neurology and then upon successful completion of
21 that there's an oral examination, which you apply somewhere, they
22 hire all these folks who are seasoned educators to interview live

1 patients and so forth. It is a pretty expensive process that's why
2 they did away with it.

3 Q. And where did your forensic psychi -- where did you do your
4 forensic psychiatry fellowship?

5 A. That was also at Walter Reed, at the National Capital
6 Consortium.

7 Q. And what was involved in completing that fellowship?

8 A. So, forensic psychiatry fellowship is a 12 month fellowship
9 and with that particular rotation -- or that particular fellowship it
10 had mixed rotations of various sites in the D.C. area. We rotated at
11 Clifton T. Perkins Hospital here in Jessup or near here in Jessup I
12 should say doing Army cases through Walter Reed. We also worked at
13 the Behavioral Analysis Unit at the FBI, and worked at the Woman's
14 Facility here in Jessup and also some work clinically at the Quantico
15 Brig.

16 Q. And now are you also board certified in forensic
17 psychiatry?

18 A. I am.

19 Q. And when was this accomplished?

20 A. 2010.

21 Q. And what's involved in becoming board certified?

22 A. That is also a written examination. There is no oral
23 examination for that.

1 Q. Is having your forensic psychiatry board certification the
2 highest level of certification recognized in your field?

3 A. It is.

4 Q. And for the Court, could you explain what forensic
5 psychiatry is?

6 A. Forensic psychiatry deals with the interface of psychiatry
7 and the law and often times there are questions pertaining to law
8 regarded with mental health. Many times individuals with mental
9 health problems get involved criminally. It also addresses civil
10 matters with relation to the law and mental health. For example,
11 competency to make medical decisions, competency to make financial
12 decisions, and so forth.

13 Q. And is a forensic psychiatrist the same thing as a forensic
14 psychologist?

15 A. No. So, a psychiatrist and a psychologist have quite
16 different routes of training. A psychiatrist graduates from college,
17 goes through medical school, and upon completion of medical school
18 does a 4 year residency to become a general psychiatrist and then to
19 become a forensic psychiatrist it is a 1 year fellowship. For
20 psychologists they do undergraduate and then they get a PhD or a
21 psychological doctorate, a PSYD, which is not a medical training
22 program and then from there then they go on to do generally an
23 internship in psychology before being a fully license practitioner of

1 psychology. And then if they chose to go onto forensics it is
2 usually a 2 year fellowship.

3 Q. Doctor Moulton, as part of your duties do you also teach?

4 A. I do. So, I'm ----

5 Q. And ----

6 A. I'm an associate professor at the University of Utah in the
7 Department of Psychiatry. I'm also the Associate Training Director
8 for the General Residency Program at the University of Utah. I'm
9 also on the Admissions Board at the Medical School and involved in
10 teaching medical students as well.

11 Q. Doctor Moulton, let's now turn to your actual experience in
12 evaluating patients. How many patients have you seen in your
13 practice?

14 A. It would be on the order of 10 -- thousands, probably
15 approaching 10,000 at this point.

16 Q. Have you ever evaluated a patient that was accused of a
17 crime?

18 A. Yes, both clinically and forensically. Clinically, I've
19 worked at several brig facilities -- brigs, correctional facilities.
20 I currently am the main psychiatrist for the Salt Lake County Jail.
21 So, my clinical involvement and then forensically which is a
22 different type of evaluation, I've done several forensic evaluations
23 for the court.

1 Q. And can you explain the difference between a clinical
2 evaluation and a forensic evaluation?

3 A. Sure. So, a clinical evaluation the purpose of that is to
4 treat a patient and in a role as a clinician there is doctor/patient
5 relationship that instills a certain amount of confidentiality with
6 the patient with whom you are treating. Your advocacy is to the
7 patient. The tends not -- well, of course you want to get an
8 accurate history the best you can. It doesn't involve the same level
9 of scrutiny that you might do with forensic matters as far as getting
10 collateral information and things. In a clinical evaluation you are
11 more apt to just take your patients word at face value regarding the
12 symptoms and things like that since your purpose is to advocate for
13 the patient and treat them.

14 Versus a forensic evaluation, it's -- you're answering a
15 question for the court and your advocacy is to answer questions for
16 the court in an unbiased manner. There is no patient/doctor
17 relationship existent. There's no patient/doctor confidentiality and
18 you -- because it is forensic in nature you -- there is a little bit
19 more scrutiny involved, certainly, with regard to verifying things
20 through collateral records, collateral interviews, those types of
21 things. But the short answer is that in a clinical evaluation you're
22 a doctor taking care of a patient. In a forensic evaluation you are
23 a specialist answering a question for a court.

1 Q. And Doctor Moulton, have you ever testified in a criminal
2 case before?

3 A. I have.

4 Q. And how many times have you testified for the prosecution?

5 A. Twice.

6 Q. How many times have you testified for the defense?

7 A. I believe five times.

8 Q. How are forensic psychiatrists useful in the legal process?

9 A. So, the purpose of bringing in an expert like a
10 psychiatrist is -- would be to answer questions that aren't clearly
11 understood or obvious by a lay person who does not have specialized
12 training, in this case psychiatry.

13 Q. Are forensic psychiatrists -- You indicated that they are
14 not advocates for a patient, are they advocates for one side or the
15 other?

16 A. They should not be. They are advocates for their opinion.
17 So, their opinion should be based unbiasedly based on their experience
18 and knowledge and expertise and they should advocate for that
19 opinion.

20 Q. Now, let's discuss some of the past positions that you held
21 while on Active Duty.

22 A. Okay.

23 Q. And remind me again, I believe you said close to 16 years?

1 A. Including my medical training, that's right. I came onto -
2 - I began wearing a uniform in 1996.

3 Q. Now, you were the Department Head at the Operation Stress
4 Center in Iraq. Is that correct?

5 A. Yes. I had two separate tours in Iraq in 2005 and 2007,
6 both of them I served as kind of the Clinical Head of the Medical
7 Operations Stress Center where we were at.

8 Q. And can you tell us what you did in that position?

9 A. It's -- Primarily what we did was -- is we see folks. You
10 run it as a clinic but -- and see folks who are coming in with acute
11 mental health concerns. In 2007, the theater was a little more
12 mature and we had some more cases that were a little more stable
13 versus 2005, the acuity was a little bit higher. But evaluated
14 patients, evaluated a little over 1,000 patients during each
15 deployment. Our role was to assess fitness of duty of members who
16 were in the combat theater. We also had a role to educate
17 commanders, combatant commanders on mental health related issues in
18 theater, and particularly on the second deployment we became pretty
19 much advocates for appropriate concussion screening and so forth.

20 Q. Now, after serving in those positions you became the
21 Department Head at the Navy Hospital at Camp Lejeune?

22 A. Yeah, that was sort of in between the two deployments
23 actually. After my return from my deployment in 2005 which was the

1 fall timeframe, I was the Director of the inpatient unit -- Director
2 of the Inpatient Unit at the Naval Hospital, Camp Lejeune which is a
3 20-bed inpatient acute unit for Active Duty Servicemembers.

4 Q. And can you explain for the Court what you did in that
5 position?

6 A. Primarily my role was clinical to take care of the Soldiers
7 when they -- and Marines when they would present acutely for care for
8 psychiatric reasons. People on an inpatient setting generally have
9 some sort of more profound illness, be it psychosis, or acute danger
10 to self or others. We didn't have a social worker so also there was
11 a lot of involvement with regard to follow-up and liaisons with
12 command, and appropriateness for continued duty and what would be
13 their appropriate level of fitness to continue on or not.

14 Q. Now, eventually you became the Clinical Chief for Inpatient
15 Psychiatry Service at the National Naval Medical Center. Is that
16 correct?

17 A. Correct. Yes.

18 Q. And what were your primary duties in that position?

19 A. So, this was a 12-bed unit and again, to take care of
20 Active Duty populations in the acute setting. That was also a
21 teaching role because we had residence and medical students who
22 rotated on the service. So, I was responsible for training them and
23 making sure they were competent to perform inpatient work,

1 particularly the 4th year of residency they have to demonstrate that
2 they can essentially independently function as they graduate and move
3 on.

4 Q. Is that around the time that you became the Associate
5 Training Director?

6 A. Yes.

7 Q. And how long again did you serve in that position?

8 A. I was Associate Training Director, let's see, from about a
9 year to a year and a half prior to my fellowship then took a 12-month
10 break for fellowship and was reappointed for 2 years after that. So,
11 I think I calculated I have been responsible for training was about a
12 third of the active duty practicing psychiatrists in the Army at the
13 time.

14 MJ: All right. Hold on. Just a minute. Yes?

15 ATC[CPT von ELTEN]: The government will stipulate to Commander
16 Mouton's expertise in forensic psychiatry.

17 CDC[MR. COOMBS]: Just one more question, Your Honor, and then
18 I'll take that stipulation.

19 MJ: All right. Go ahead.

20 Q. In July of 2012, that's when you took a faculty position at
21 the University of Utah?

22 A. That's correct.

23 Q. And what do you do at the University of Utah?

1 A. So, I'm an Assistant Professor of Psychiatry in addition to
2 that I'm the Associate Training Director for the adult program so I'm
3 specifically responsible for the clinical competency committee which
4 measures the competence of the residents as they progress through
5 training and their fitness ability to transition in practice. I'm on
6 the Admission Committee for the Medical School, so I interview
7 medical students too and help make decisions regarding which
8 candidates we'd like to select for the incoming class. And of course
9 on the Residency Committee we do the same regarding residence. We
10 have an interview season, we interview them, and then we have
11 discussions who we'd like to choose as candidates.

12 CDC[MR. COOMBS]: Your Honor, at this time the defense would
13 request that the Court recognize Doctor Moulton as a subject matter
14 expert in forensic psychiatry.

15 MJ: All right. Since the government has already stipulated to
16 that, then you can lay the foundation and it's accepted.

17 Q. Doctor Moulton, let's talk now about what you did in this
18 case. Okay?

19 A. Okay.

20 Q. How much time have you spent working on this case?

21 A. It's well in excess of 100 hours. I wasn't tracking it
22 exactly because Active Duty aren't billing our time, but well in
23 excess of 100 hours.

1 Q. And can you briefly outline what you've done in your
2 evaluation of PFC Manning?

3 A. So I met with him about seven interview days, a total of 21
4 hours. That included five trips out to Leavenworth during that
5 period. I reviewed his medical records both pre-deployment, both
6 pre-Army -- or excuse me, I should say, pre-Army, pre-deployment and
7 his deployment medical records. At some point I reviewed his
8 confinement at Quantico records. It's been a long time since I
9 reviewed those. I wouldn't consider them a basis of my testimony at
10 this time it's been a long time since I've seen them. I reviewed
11 some statements that were provided. I wanted to do collateral
12 interviews with family, and some points of contact and peers. But
13 there was already been some groundwork done with that with a social
14 worker by the name of Deborah Gray. I found her reports to be pretty
15 thorough. So, I didn't feel a need to do independent interviews
16 again with those same people. I reviewed -- At one point I read the
17 15-6 evaluation. It's been a long time since I reviewed that. I
18 remember some of the details but not -- again, I don't think it's a
19 basis of my opinion today. And let's see, I reviewed school records
20 which, yes, his school records. And I think that's the bulk of it.

21 Q. What was the purpose of reviewing prior evaluations and
22 tests and other medical records?

1 A. I wanted to get some background regarding his prior mental
2 health evaluations, kind of also the context which those took place,
3 get impressions regarding past diagnoses, past treatments he's been
4 afforded and so forth.

5 Q. Is it common practice in your profession to review that
6 type of material?

7 A. Absolutely, that would be quite essential for a complete
8 forensic evaluation.

9 Q. Has PFC Manning been previously evaluated by mental health
10 professionals?

11 A. He has.

12 Q. And who was the first to your memory, to evaluate PFC
13 Manning?

14 A. For mental health purposes, the first records I reviewed
15 were from a Dr. Coralie, who he saw on a couple occasions before his
16 18th birthday. I think that was 2005, if my recollection serves.

17 Q. And what type of mental health professional was Dr.
18 Coralie?

19 A. From the notes it appears she's a primary practice doctor,
20 like a family practitioner of some type. It didn't say on there that
21 she was a psychiatrist.

22 Q. Who is the next mental health professional to evaluate PFC
23 Manning?

1 A. His name starts with an "M", I think. Doctor -- you'll
2 have to jog my memory. Sorry.

3 Q. Is it Dr. Myers?

4 A. Yes, Dr. Myers, thank you.

5 Q. Do you recall what type of doctor he was?

6 A. From my recollection of that note that also appeared to be
7 a family practice doctor, some sort of general practitioner. This
8 was in Virginia in 2007, when he was living with his aunt.

9 Q. Did you review any other type of mental health records?

10 A. Sure. That's all he had pre-deployment that I reviewed,
11 and then I -- or, sorry. Pre-Army. When he came into the Army, he
12 had medical records from that. He was evaluated at Fort Leonard Wood
13 where he did his basic training, he had an evaluation. And then he
14 was evaluated five times I think at Fort Drum and then was evaluated
15 in theater as well.

16 Q. What time span for the military records essentially did you
17 see?

18 A. So, when he came in, that was 2008, I want to say,
19 timeframe, I think, at Fort Leonard Wood, that he had that one-time
20 evaluation. Then pre-deployment. So that would have been later that
21 year. And then throughout his deployment.

22 Q. In general, what were the major findings that you saw from
23 those mental health records?

1 A. Sure. So, Dr. Coralie found that he had anxiety and
2 started him on Lexapro at a low dose. And then he took that for a
3 while by my interviews with him, but he went off of it. And then
4 about 2 years later he was living with his aunt and having increasing
5 anxiety at that time. Some of this not is just anxiety but his
6 ability to access mental health care, some reasons for that gap. In
7 2007 he was reinitiated on Lexapro for the same, for having anxiety
8 and a panic attack. When he came on active duty he was no longer
9 taking psychotropic medications. His understanding was that it was
10 kind of under control and his recollection to me, was the discussion
11 with the recruiter, and it's not uncommon that recruiters say, don't
12 bring that up, it's fine. Which, technically you're not supposed to
13 do that, but recruiters, in my experience do that quite frequently.
14 He was seen at Fort Leonard Wood during basic. He had been recycled
15 due to physical problems and was having some emotional difficulties
16 at that time, was actually brought in for tantrum fits of rage I
17 think is what the chief complaint read as when he was there.
18 Appeared to be what an informal command directed mental health
19 evaluation. It didn't comment that there was any attached paperwork
20 or anything, but he was brought to mental health by his command. A
21 lot of times, you know, if a patient is willing to talk with mental
22 health and they are voluntarily there or sometimes it's difficult to
23 assess voluntary versus voluntold, but enough of the paperwork is

1 absent. In any respect, Dr. Coralie, my recollection is, from the
2 note was, she didn't have a diagnostic findings for him at the time
3 and actually, gave him a global assessment a functioning of 80, which
4 is actually pretty high. That's where most high functioning people
5 kind of live with a global assessment function.

6 And then he was brought again to see mental health at Fort
7 Drum. His first visit there was bringing brought in by command for
8 behavioral outbursts and concerns about his mental stability. There
9 wasn't any command evaluation paperwork with him, he didn't really
10 want to talk to mental health, and they excused him, didn't do much
11 of an assessment. Then he walked in on his own about few weeks later
12 after that and was having emotional difficulty and so forth. A one-
13 time evaluation and came back after that and saw Dr. Gretch three
14 times. Initially Dr. Gretch diagnosed him with a personality
15 disorder. Those notes kind of shied away from that. Said probably
16 more traits than an actual personality disorder. And then he was
17 deployed.

18 Q. And have you recently been able to review a redacted R.C.M.
19 706 board report?

20 A. I have.

21 Q. When was that?

22 A. I got that document actually on the airplane, when I was on
23 my way here, it popped up in my inbox.

1 Q. And have you had a chance to review that?

2 A. Yes, I reviewed that yesterday morning.

3 Q. How does that, along with the other medical records that
4 you reviewed compare generally with what you found?

5 A. They are generally very similar. Certainly their diagnoses
6 included gender identity disorder, otherwise known as gender
7 dysphoria, adjustment disorder, which is certainly reasonable. He
8 had a lot of adjustment issues. This has to do with around the time
9 of the offenses. As well as personality disorder, not otherwise
10 specified. It's a little different than my diagnosis as far as, I
11 placed the gender dysphoria definitely as primary there and
12 personality disorders generally you want to withhold diagnosing those
13 while there is other active axis, what we call Axis I or major
14 psychopathology going on, because there is a lot of abnormal
15 personality traits will come on in the setting of untreated mental
16 illness.

17 Q. Doctor, let's talk about some of your interviews of PFC
18 Manning. You indicated that you met with him for approximately 21
19 hours?

20 A. Yes.

21 Q. How many times would that have been?

1 A. I think we had seven meetings over five trips out there, or
2 7 days, something like that. One of those trips I was out there for
3 2 days.

4 Q. Was this length of time sufficient to get a good and
5 accurate evaluation of him?

6 A. Yes, particularly in combination with ancillary records
7 that I had and so forth. I think I would have an adequate assessment
8 period.

9 Q. Can you explain the interview process?

10 A. Sure. So we have a set amount of data that we need to
11 cover for sure to try to get an understanding of all the aspects of
12 different categories of mental illness to understand his mindset,
13 emotionality, character structure, kind of what his motivations and
14 drives are, his personality makeup, that type of thing in context to
15 its development as well as in context to around the time of the
16 offenses.

17 Q. And what is the importance of the interview process in your
18 evaluation?

19 A. To get the information you need to answer the question for
20 the court for sure. And you want to gain adequate rapport with the
21 patient, or the client I should say, in order to get the information
22 you need while making sure that they understand the limits of
23 confidentiality during the interview process that you are not -- I'm

1 not there to form alliance like a doctor/patient would have. But you
2 want to gain enough trust to where they are willing to talk with you
3 and feel comfortable.

4 Q. Dr. Moulton, based upon the information that you were able
5 to review, the items that you talked about, and the interviewing of
6 PFC Manning, did you reach a diagnosis?

7 A. I did.

8 Q. And what was that?

9 A. Diagnostically he has gender dysphoria, otherwise known as
10 gender identity disorder. And he had some symptoms of fetal alcohol
11 syndrome, as well as symptoms of Asperger's but he fell short of a
12 diagnosis there. And that he certainly had abnormal personality
13 traits that were identified, but like I mentioned I did not diagnose
14 him with the personality disorder due to other stressors that were
15 going on at the time.

16 Q. Let's talk about gender dysphoria.

17 A. Okay.

18 Q. Is gender dysphoria and gender identity disorder the same
19 thing?

20 A. Essentially, yes. This spring a new addition of the
21 Diagnostic Statistics Manual, DSM, came out, DSM-V, and this was one
22 of the delays. This diagnosis in particular was kind of debated back
23 and forth of what they should call it. There were other things too,

1 but this was one of the things. They settled on gender dysphoria.
2 Gender identity disorder is still used by the ICD-X, which is the
3 International Classification of Diseases. So that term is still out
4 there and used for medical coding and so forth. But essentially
5 diagnostically they are the same thing.

6 Q. Is gender dysphoria the same thing as homosexuality?

7 A. It is not. Gender dysphoria is disturbance of one's gender
8 as in male or female. Where homosexuality is an attraction to the
9 same gender.

10 Q. What is the gender identity from a psychiatric standpoint?

11 A. Gender identity is how one identifies himself as being male
12 or female. So it's a sense of maleness, a sense of femaleness, both
13 biologically, both psychologically, the role in society and so forth.

14 Q. How is gender identity established?

15 A. Gender identity is generally established pretty early in
16 life, generally within the first 3 years. How much of that is
17 biologic and how much is environmental is hotly contested. The
18 consensus is not clear. The analysts have been kind of theorists and
19 so forth for over a century have tried to explain it in ways, but
20 oftentimes these just raise more questions as to how much we don't
21 understand and how complex this issue really is.

22 Q. What type of behaviors -- Well, actually first of all, what
23 symptoms do you see in gender dysphoria?

1 A. Gender dysphoria is the sense that one belongs in the other
2 gender. That they were perhaps born in the wrong gender, is an often
3 common complaint, that they should be in the other gender, that they
4 are more comfortable in the role of the opposite gender. This is
5 beyond just societal implications, for example our typical societal
6 stereotypes, like a man who wants to stay home and raise his kids.
7 That would not be characteristic of that. But more that someone
8 wants to be a female or a male wants to be a female, or feels that
9 they were born in the wrong gender. And then often a desire to pass
10 as the other gender, physically morph their body or change their body
11 into the opposite gender.

12 Q. In general, you described some things but what types of
13 behaviors are seen with someone of gender dysphoria?

14 A. So often it presents early in childhood, and persons will
15 often cross dress, they will often express their desire, children may
16 even insist they are not the gender they were born. Play activities
17 will be predominantly with the opposite gender. As far as types of
18 play, it's generally more stereotypical, the opposite gender, though
19 that in isolation would not be considered part of gender identity,
20 but it's -- if it's co-morbid with a lot of the other symptoms then
21 it would be a notable factor.

22 Q. And how common is the disorder?

1 A. The consensus isn't exactly there. It hasn't been a --
2 there hasn't been a large epidemiologic study for quite some time.
3 DSM sites it in between 1 and 7,000 and 1 in 30,000. There's some
4 other studies that show it to be more frequent. Generally those
5 studies have been highly influenced by activism, however. 1 in 7,000
6 and 1 in 30,000 is the best accurate figure.

7 Q. And how impairing is gender dysphoria?

8 A. It can be quite impairing and actually I have had several
9 cases at the University of Utah, people presenting in-patient
10 hospitalization because of safety issues regarding suicidality
11 because of this. Gender is very much a core of our identity as
12 individuals. And when that is off keel, can use a Navy kind of term,
13 the whole ship or your life has difficulty establishing direction and
14 tends to wander. It can a lot of stress, significant dysphoria,
15 depression. Frequently in our society oftentimes questions regarding
16 gender are associated with a lot of shame, guilt, concern for
17 stigmatization, retaliation, can lead to a really questioning self-
18 identity, self-concept, self-worth those types of things.

19 Q. And what is the course of development for an adult with
20 gender dysphoria?

21 A. Well, so oftentimes you have these kind of symptoms in
22 childhood, certainly as PFC Manning did. And as you get, one
23 transitions to adulthood, sometimes the symptoms don't come back;

1 sometimes they do. It can cause a lot of dysphoria and questioning
2 of your identity and existence and a desire to be the opposite
3 gender. That's as an adult usually one considers transition of some
4 type or the other to the other gender, including, you know, periods
5 of time living in the opposite gender role, hormone therapy and then
6 surgical transition.

7 Q. Now apart from your diagnosis has PFC Manning been
8 previously diagnosed with gender dysphoria?

9 A. He has.

10 Q. And when was this?

11 A. He was diagnosed with GID, or gender identity disorder,
12 which was the nomenclature at the time by doctor, or Captain Worsley
13 who saw him in Iraq, and also in the 706 board they diagnosed him
14 with gender identity disorder.

15 Q. How does this fact factor into your diagnosis?

16 A. Well, it certainly supports it. There was -- In the 706
17 there was a lengthy discussion that was similar to my thought process
18 regarding establishing the diagnosis. Captain Worsley was a busy
19 clinician in Iraq, and he didn't have a lengthy discussion of how he
20 reached that diagnosis. But it was good to know that he was thinking
21 about it and made that diagnosis.

22 Q. What is a personality disorder?

1 A. A personality disorder is a pervasive longstanding
2 maladapted pattern of behavior, usually begins early in childhood and
3 is present consistently throughout childhood, into adulthood in ways
4 that interfere socially and occupationally.

5 Q. And what is a personality trait?

6 A. So, personality traits make up personality disorders,
7 certainly. Or an abnormal personality trait I guess is what you are
8 alluding to. Most people have some abnormal personality traits.
9 They tend to be more prominent under periods of stress. And if they
10 are long acting and pervasive, and there's enough of them present,
11 then more a diagnosis personality disorder. Stress frequently brings
12 them on, if common scenario is, when people you know or yourself even
13 would get very tired, you might start acting out more and feel much
14 more mood swingy and act out more, and be prone to irritability,
15 those type of things are abnormal personality traits that would come
16 out under stress, for example, but not necessarily indicative of a
17 personality disorder.

18 Q. What is the criteria for diagnosing one with a personality
19 disorder?

20 A. There is a variety personality disorders. One of the main
21 factors include, different types of personality disorders have
22 different criteria that need to be met in order make that diagnosis
23 for that personality disorder. In addition to that, it has to be

1 pervasive, existent from early on in their adolescence, at least, if
2 not even prior to that. And one of the other key factors from a
3 personality disorder is that it's not something that's better
4 explained by something else. And that it's difficult to establish
5 diagnosis of personality disorder, if the person is under a lot of
6 stress, particularly from a co-morbid psychiatric illness such as a
7 depression or in this case gender dysphoria or, something if they
8 have -- if they are under stress for that type of thing, it's
9 unclear, may not be symptoms, sometime will resolve once that
10 underlying condition is adequately treated.

11 Q. In your clinical opinion does PFC Manning have a
12 personality disorder?

13 A. I did not diagnose him with a personality disorder.

14 Q. How certain are you about that?

15 A. Reasonable medical certainty.

16 Q. Why are you so sure?

17 A. So for me, the basis of personality disorder with PFC
18 Manning, for a specific personality disorder with lack of criteria.
19 There is a category personality disorder, not otherwise specified
20 where you have a -- kind of encapsulate various symptoms but don't
21 quite meet the criteria for any specific personality disorder, but
22 you have enough when you have occupational, social dysfunction as
23 well. But, again, for me kind of hinged on this Criteria E of the

1 diagnostic criteria, which is that it can't be better explained by
2 something else. So, as far as the persuasiveness of his symptoms and
3 so forth, I had difficulty establishing that outside of his stressors
4 of gender dysphoria. In childhood there were periods of stress that
5 would manifest these behaviors, but it was in the setting of very
6 high stress for a young man, alcoholic parents, period of
7 homelessness, all sorts of stressors that absent that it would be
8 difficult to say whether or not he would be manifesting those same
9 type of behaviors.

10 Q. Does PFC Manning have any personality traits that you
11 noticed?

12 A. Yes, he definitely has some abnormal personality traits
13 that become more evident as he gets stressed.

14 Q. And what are those personality traits?

15 A. So, he has abnormal personality traits in the realm of
16 narcissistic personality, borderline personality and to a lesser
17 extent obsessive compulsive personality.

18 Q. What are the features associated with those traits?

19 A. So in the realm of narcissism he tends to exhibit kind of
20 grandiose ideas and also arrogant and haughty behaviors that become
21 more evident when he's upset. His borderline personality realm of
22 note for narcissistic disorder there is criteria, have to meet
23 consistently to meet a diagnosis and I found he only had two of

1 those. With regard to borderline personality, he really only
2 manifested one consistently and that's an identity disturbance. This
3 is kind of very core to folks with gender identity issues that they
4 have this identity disturbance that goes actually beyond gender as I
5 mentioned. Gender is very much core to someone's personality. So if
6 that's kind of arrived, they have difficulties in other areas of
7 personality identity. When PFC Manning is under a lot of stress, he
8 does manifest more episodes or more symptoms of borderline
9 personality, such as irritability, mood swings, acting out, even
10 under extreme stress like just prior to the incident with Specialist
11 Showman, suicidal behaviors and ideations.

12 Q. Was there anything notably absent in PFC Manning's
13 personality that would be relevant to this case?

14 A. Yes. I did not find a lot of symptomatology consistent
15 with anti-social personality disorder.

16 Q. What is that?

17 A. Anti-Social Personality Disorder is a personality disorder
18 where you consistently infringe upon the rights of others and you
19 have difficulty adapting to societal norms with regard to legal
20 behaviors and legal conduct. That, again, has to be pervasive, has
21 to be existent prior to the age of 15 and there has to be evidence of
22 disorder conduct. I did not glean that from the interviews, or any
23 ancillary data or his personality testing didn't really show any

1 evidence of Anti-Social Personality Disorder. Anti-Social
2 Personality Disorder also is very prevalent in our correctional
3 population of males that are in correctional facilities. Two-thirds
4 to 80 percent of them have been diagnosed with Anti-Social
5 Personality Disorder. So that is absent with him.

6 Q. Why is that significant in your mind?

7 A. I think it gives some indication of his motivations and his
8 drives. It was very supportive of, you know, the things that I read
9 and reviewed in discovery and my interviews with him that definitely
10 shows some consistency with regard to his stated motivations were
11 very much in line with someone who had that diagnosis. I think it
12 was showed consistent pattern.

13 Q. How would the personality traits and other indications of
14 personality traits impact PFC Manning that you saw?

15 A. So when he's under signs -- in times of extreme stress they
16 would become more prevalent. In particular with the kind of arrogant
17 and haughty behaviors, with his grandiose ideations would become more
18 prominent during periods of stress, as well as the acting out that
19 was kind of seen in periods of time when he is on deployment, turning
20 over tables, striking a fellow officer -- his fellow Soldier, things
21 like that.

22 Q. What is Post-Adolescent Idealism?

1 A. So Post-Adolescent Idealism, it's a normal stage of adult
2 development that people go through between, as they transition from
3 adolescence into adulthood. It's a period of time when people are
4 more focused on, well, become focused on making a difference in the
5 world, societal changes, things like that. It's a transition because
6 in adulthood your -- in childhood your world is kind of small, you
7 win contests, you're the best in your school at something. As you
8 transition into adulthood, there is a transition where you realize
9 you are not really the best of anything perhaps. As you grow up and
10 you learn that. In that transition period you still are holding on
11 to some of that idealism from youth. And you get exposed, as you
12 become an adult, things in society and things that you think you can
13 make a difference, because you made a difference when you were an
14 adolescent. And drives a lot of activism on college campuses, even
15 the riots that eventually throughout history have happened on
16 campuses. Leads a lot of people to the Peace Corps, all sorts of
17 various things like that. It's a normal stage of human development.

18 Q. And how would a narcissistic personality trait impact the
19 normal development of this phase of being idealistic or having
20 idealism?

21 A. So along lines of the kind of grandiose sense of self-
22 importance. And it would tend to exaggerate that some with your
23 ability to accomplish something and make a big social impact. There

1 would be more likely to take a lead in that type of position or even
2 act alone rather than someone with less narcissistic personality
3 trait may join a club or become part of a group. Someone with more
4 narcissistic kind of tendencies might lead out, take a stand on their
5 own or even feel like they were only the one able to accomplish
6 something.

7 Q. Are you familiar with the IM chats between PFC Manning and
8 Zachary Antolak, who is now going by the name of Lauren McNamara?

9 A. Yes, I reviewed them.

10 Q. Within that chat PFC Manning states, I'm trying to figure
11 out a way to prevent a civil war the second we leave, referring to
12 Iraq. What significance do you attach to that statement by PFC
13 Manning?

14 A. I think that leads into this kind of focused adolescent
15 idealism and his narcissism that he felt that he as a young enlisted
16 Soldier, part of a huge organization with that goal, and he's
17 identified that he's himself is trying to figure out a way to prevent
18 this. I think this is -- This ideology is very common in that post
19 adolescent idealism where you really feel like you can make social
20 impact. And his stance is feeling like he's the one to do that
21 really speaks to kind of that narcissistic grandiosity.

22 Q. Now I want to ask you few questions about PFC Manning's
23 gender identity disorder, now dysphoria. Okay?

1 A. Sure.

2 Q. How did that impact PFC Manning from your perspective
3 during the deployment?

4 A. It was significantly stressful for him. This is a time for
5 PFC Manning where he was considering living as a woman, and
6 considering if that was something he wanted to complete, that was
7 evidence also in the chats that I reviewed, there were some
8 discussion of him transitioning and wanting to transition. That
9 combined -- That is a great stressor in and of itself. And he was in
10 an environment that really precluded him talking openly about those
11 desires and so forth. And he had to kind of keep things under wraps
12 so he could continue on a military. It created a lot of stress. A
13 sense of isolation and so forth. He didn't feel like he could talk
14 with anyone about that comfortably. And he's always
15 characteristically been somewhat of more of the cyber world anyway
16 but I think it very much turned him there where he could describe
17 those things more openly and with some anonymity. In fact in our
18 discussion he was talking about how there was a sense of comfort
19 level in that kind of chat room environment, because he could be
20 whoever he wanted to be. And anonymity, and I think his phrase to me
21 was masquerade ball to the max. He could comfortably be who he
22 wanted to be and not have to worry about being judged and isolated
23 and so forth. In the environment of the theater made it very

1 difficult for him to grab hold of these things with really no one to
2 turn to. In addition to that he doesn't have a lot of social, he has
3 very limited social support to even, you know, in garrison and
4 stateside at home. His family is not someone he turns to for
5 emotional support. In fact, often they turn to him for emotional
6 support. And his friends had kind of abandoned him kind of at that
7 point. He was having difficulty getting hold of people that he
8 previously could have been in touch with for help and support.

9 Q. Did he have the ability to turn to mental health for that
10 assistance, help and support?

11 A. In the military?

12 Q. Yes.

13 A. Not really, no.

14 Q. Why is that?

15 A. So at that time, first of all, we are under Don't Ask Don't
16 Tell. So you could be administratively separated for even revealing
17 he was homosexual. Gender identity disturbances are not treated in
18 the military. In fact, they are grounds for administrative
19 separation.

20 Q. When an individual has gender identity disorder or
21 dysphoria, what is the standard course of treatment for somebody who
22 wants to be treated?

1 A. Gender dysphoria is paramount to get psychotherapy
2 regarding, as far as your gender identity, thorough understanding of
3 establishing a pattern of, that's consistent that you wanted to be
4 this gender, make sure you are not dealing with any kind of more of a
5 depression or anything else, or even psychosis, which is less common
6 but can happen. Make sure you're dealing purely with a gender
7 identity issue. And then as you work through that and discuss what
8 the desires of the patient would be to, oftentimes it involves some
9 type of transition and wanting to be the other gender. It's
10 important to take that in a very steady and calculated course. So
11 generally people would practice living in that opposite gender role
12 for a period of time to see if the dysphoria begins to lift. And
13 then as that progresses then sometimes hormonal treatments are
14 instituted. And ultimately, if they continue to, if a patient wants
15 and desires it, then a surgical transition. It needs to be done
16 calculated. Frequently people come in and they want to be the
17 opposite gender today. And that's unwise. It's best to take it
18 slowly. Because those surgeries are not reversible.

19 Q. Could PFC Manning receive that treatment while in the
20 military?

21 A. He could not.

22 Q. Did PFC Manning eventually turn to his unit for help?

1 A. He did. Kind of the height of his emotional distress I
2 think is when he did send an email to Master Sergeant Adkins, when
3 PFC Manning went on his R&R leave in January, he spent a good portion
4 of that time living as a woman and he sent a photograph of himself as
5 a woman to Master Sergeant Adkins in an email.

6 Q. Besides the gender identity disorder or dysphoria, what
7 other stressors did you see in PFC Manning's life during the
8 deployment time?

9 A. So, he was living under Don't Ask Don't Tell in addition to
10 that. So, that made some difficulties as far as him being somewhat
11 cautious regarding who he would reveal that information to. PFC
12 Manning was very interested in doing his duty, as far as completing
13 his service contract with the military. And especially was very
14 interested in getting his GI Bill, which one of the main drivers that
15 brought him into the military. And this for him goes beyond what
16 would be typical for a Soldier regarding how important that GI Bill
17 was to him. PFC Manning is quite intelligent and his desires were to
18 get college education. He had a lot of socioeconomic limitations to
19 getting that. That would be his primary desire would be to complete
20 his college education. And holding on to that was very, very
21 important to PFC Manning. If he lost that, there would be sense of
22 very severe despair. And my guess would even be suicidality if that
23 was taken away from him. So that was something that was very much

1 playing on his mind. In addition, he was in a strained relationship,
2 which I think at the time he was struggling to know what was going on
3 with his relationship with his boyfriend, Brandeis, but ultimately
4 they became estranged, and that was a big source of support for him
5 as well. And that was his first long-term relationship and that was
6 very difficult for him to adapt to. And, you know, he's sending
7 emails daily, sometimes several times daily not getting responses for
8 days on end and getting more and more dysphonic regarding that. Then
9 he's got his chronic stressors as well that he was still dealing with
10 as a young adolescent. He was raised by alcoholic parents, took care
11 of his severely alcoholic mother, who for many years, who really was
12 very non-functional and getting very poor parenting growing up with a
13 lot of neglect. And those present a lot of issues throughout
14 adulthood. While it's not something we will typically diagnose, per
15 se, in that in isolation but it's a source of significant distress.
16 There's large support organizations for children that deal with
17 alcoholics and so forth. 12-step programs that often people need to
18 do to go through years before they can begin to make significant
19 progress and really feel more comfortable with those stressors.

20 Q. What degree from your perspective of stress did PFC Manning
21 have then in his life during the deployment?

22 A. It was very high. Very high stress.

1 Q. And what did the stress lead to for PFC Manning in his
2 life?

3 A. Well, he became more isolative certainly. And really felt
4 he couldn't reach out more. His abnormal personality traits started
5 becoming more prominent through his acting out, his grandiose
6 ideation. His difficulties during that post-adolescent period and
7 then ultimately, when he came in contact -- or he had contact with
8 the information which he ended up releasing, you know, his decision
9 making capacity at that point was influenced by the stress of his
10 situation for sure.

11 Q. Dr. Moulton, have you read PFC Manning's providence inquiry
12 statement?

13 A. I have.

14 Q. Have you reviewed the Charge Sheet?

15 A. I have.

16 Q. And based upon what you know about PFC Manning and the
17 offenses, do you have an opinion, within a reasonable degree of
18 certainty, a medical certainty, as to PFC Manning's thought process
19 during the relevant time?

20 A. Yes.

21 Q. And what is that?

22 A. That he was under severe emotional distress at the time of
23 the alleged offenses.

1 Q. Can you explain why that's your opinion?

2 A. Well, the degree of stressors that were upon him like we
3 discussed, he was having a lot of difficulty. He was highly
4 stressed. He had been having -- acting out incidences in the SCIF,
5 you know, just prior after, kind of one of the ultimate things was
6 him curled up in a ball with a Gerber knife, and shortly thereafter
7 struck a fellow Soldier. That was kind of leading up to that. His
8 stressors were pretty prominent and progressive throughout the course
9 of his deployment.

10 Q. Did PFC Manning have the ability at that time to appreciate
11 the wrongfulness of his actions?

12 A. He did.

13 Q. And even though he could appreciate the wrongfulness of his
14 actions, was there a reasonable explanation for his actions based
15 upon what you saw?

16 A. Yes, there was.

17 Q. And what is that?

18 A. As he was very stressed out, and did not have a lot of
19 people to turn to, either at the unit and not getting response from
20 his peers back home, he became, I think, very enthralled in this idea
21 that the things that he was finding were injustices that he felt
22 morally to right, very in line with his belief system, as far as
23 righting wrongs, when he sees them, and trying to balance obligations

1 that he's taken on. Because he knew he had an oath to his job as a
2 Soldier, but also saw this as something that conflicted, as far as
3 his ideology as well, trying to balance those things. Very limited
4 resourcing to where he felt he could or had people that he could turn
5 to and talk to. During our discussions, for example, he discussed
6 his friend Danny Clark, who he really trusted, really looked up to
7 and was unavailable to him and couldn't get in contact with him. And
8 he very much felt in hindsight had he been able to talk with Danny
9 Clark about these frustrations and these moral kind of dilemmas he
10 was facing and -- that that might have prevented these acts, because
11 he really trusted, you know, he felt like if Danny told him not to do
12 that, he definitely wouldn't have done that. He definitely wished he
13 had somebody he could talk to during that period where he was
14 struggling morally with these decisions.

15 Q. Now did you review the chat conversation between PFC
16 Manning and Adrian Lamo?

17 A. I have.

18 Q. And how did you view this conversation?

19 A. He was very much reaching out. He wasn't sure if -- he was
20 definitely reaching out, as far as someone to talk to and needing
21 emotional support, his question with his sexuality, his gender
22 identity, these were all kind of themes throughout, really kind of
23 reaching out towards someone to look for some emotional support.

1 Regarding things he had released, kind of his thought process behind
2 what he was doing and so forth was kind of evident and the moral
3 obligation he was kind of feeling at the time.

4 Q. And on multiple occasions PFC Manning conducted searches
5 for information on the leaks that he had provided to WikiLeaks. How
6 do you interpret that conduct?

7 A. Well, PFC Manning was under the impression that his leaked
8 information was going to really change how the world views the wars
9 in Afghanistan and Iraq, and future wars actually. This was an
10 attempt to kind of crowd source an analysis of the war. And it was
11 his opinion that if through crowd sourcing that enough analysis was
12 done on these documents, which he felt to be very important, that it
13 would lead to greater good, that society as a whole would come to the
14 conclusion that the wars weren't worth it, that really no wars are
15 worth it. He talked to me a lot of about war gaming on different
16 situations, something I don't totally understand. But basically
17 through crowd sourcing enough analysis, which is true with other
18 things, we've definitely solved a lot of problems in society with
19 crowd sourcing for sure, that things would improve. So his
20 monitoring of the traffic I think was to see if this was, in fact,
21 being done, which is what his goal was, to get this out there for the
22 public to be able to see, view, analyze and come to similar ideas
23 that he did that with enough analysis, you know, that this would lead

1 to the greater good. So I think he was just trying to see what the
2 impact was towards his efforts, as far as getting out there to be
3 utilized by the people.

4 Q. Now what degree of stress -- Well, actually the degree of
5 stress that he was experiencing at that time in your estimation, how
6 did that influence his thought process?

7 A. I think it definitely impaired it. So he was, again this
8 post-idealistic phase, he's got this little world that he has become
9 more and more isolative in and I think it really impaired his ability
10 to think beyond more broadly about the significance of what he was
11 doing, the significance of what he was releasing, which in reality
12 hasn't had near the impact that he hoped with regard to ending all
13 war. It was more apt to put him very narrowly focused in this kind
14 of post-adolescent idealistic kind of cause, very hyper focused on
15 this cause he was involved and he had difficulty thinking about
16 anything else.

17 Q. What level of understanding does PFC Manning have of his
18 personality traits that you talked about?

19 A. Relative it's, it's most people with abnormal personality
20 traits don't have a lot of good insight into that. He does have some
21 recognition that he has a temper and can have a temper when he gets
22 upset. You know, as far as like his psychological understanding,
23 specifically where that lies and so forth, it's about average, maybe

1 a little bit above average but typical insight as for people with
2 abnormal personality traits. If we have a lot of insight, we'd
3 probably would stop doing things we do.

4 Q. Why doesn't -- What about -- Actually, what about the post-
5 adolescent idealistic phase? What understanding does he have of
6 that?

7 A. I couldn't tell you for exact certainty unless he
8 specifically had a course in adult development. I don't know that
9 that would be on his radar. A lot of times when people are in that
10 phase, they don't know they are in that phase. It usually takes an
11 outsider to identify that for them.

12 Q. And what about the connection with GID, from your
13 standpoint how did that impact self-awareness, what his thought
14 process was?

15 A. It certainly added to his stress. Like I mentioned, gender
16 is the main core of identity that often leads to identity in other
17 things. This was evident in some of the ancillary interviews that
18 were done with friends with Dr. Gray was that Bradley really hadn't
19 entirely figured out what his role in the world was going to be or
20 what he wanted to be. He had some grandiose ideas. He's been
21 wanting to be President of the United States since he was 13 and
22 wanted to make a big difference in computer programming and wanted to
23 do physics, and he has a broad array of interests. But, as far as

1 what he was to become or what he wanted to do, he knew he wanted to
2 do something great, but wasn't sure what that would be yet. He was
3 definitely struggling to find himself, as far as his identity and so
4 forth. I think that impaired his ability to really rationally think
5 through of the consequences of what he was doing. He underestimated
6 how much trouble he would get in for sure. He thought he would be
7 separated from the military, worst case scenario, which is a gross
8 underestimate. Certainly any political aspirations that he might
9 have, this would seriously impair that. I think he was hyper focused
10 at the time and not thinking really beyond the box. And just focused
11 with, okay, this is the situation and really relying on his morals
12 and his ideologies and dealing with that without looking at the big
13 picture; like I'm faced with this. I feel this way. This is a wrong
14 I need to right, and underestimated how much everything else in his
15 life might matter, as a result or change, as a consequence of his
16 actions.

17 Q. What are you most sure about PFC Manning in terms of his
18 personality?

19 A. He's very consistent, which is something that was
20 important, I think, as far as the statements he's made, conversations
21 and interviews all fit in with his system of beliefs, his personality
22 structure as vested in his -- during my interview. There wasn't a
23 lot of, well, that seemed out of place. That doesn't seem out of

1 place. He said this then but then he changed and said this. It's
2 been very consistent.

3 CDC[MR. COOMBS]: Thank you, Doctor.

4 MJ: All right, Government, how long are you going to need?
5 And, once again, estimate with an idea that we're not going to have
6 15-minute increment delays.

7 ATC[CPT VON ELTEN]: 90 minutes, Your Honor.

8 MJ: All right. Why don't we do this. It's almost a quarter to
9 2. Why don't we come back at -- if we come back at ----

10 ATC[CPT von ELTEN]: Yes, ma'am, that's fine.

11 MJ: What?

12 ATC[CPT von ELTEN]: A quarter to 2?

13 MJ: I'm sorry. It's 1:35. So if we come back at ----

14 ATC[CPT VON ELTEN]: 1500.

15 MJ: Does that work?

16 ATC[CPT von ELTEN]: That works, ma'am.

17 MJ: All right.

18 **[The witness was temporarily excused, duly warned and withdrew from**
19 **the courtroom.]**

20 MJ: And the Court is in recess then until 1500.

21 **[The court-martial recessed at 1336, 14 August 2014.]**

22 **[The court-martial was called to order at 1458, 14 August 2013.]**

1 MJ: Court is called to order. Let the record reflect all
2 parties present when the court last recessed are again present in
3 court. The witness is on the witness stand.

4 Is the Government ready to proceed?

5 ATC[CPT VON ELTEN]: Yes, Your Honor.

6 MJ: Is there anything we need to address before we proceed?

7 CDC[MR. COOMBS]: No, Your Honor.

8 ATC[CPT von ELTEN]: No, Your Honor.

9 MJ: Go ahead.

10 **CROSS-EXAMINATION**

11 **Questions by the assistant trial counsel [CPT von ELTEN]:**

12 Q. On direct you talked about the separation process for a
13 Servicemember with Gender Identity Disorder and Gender Dysphoria?

14 A. Correct.

15 Q. Sir, does a Servicemember with Gender Dysphoria receive an
16 administrative separation?

17 A. Typically that is correct, yes.

18 Q. Does that mean the Servicemember receives an honorable
19 discharge?

20 A. Yes, as long as there wasn't any other reason not to give
21 an honorable discharge, yes.

22 Q. So with an honorable discharge does a Servicemember keep
23 all benefits that have already vested?

1 A. Vested benefits, yes.

2 Q. So if a Servicemember has 3 years of service, he gets to

3 keep his GI benefits with an honorable discharge?

4 CDC[MR. COOMBS]: Objection, Your Honor.

5 MJ: Yes.

6 CDC[MR. COOMBS]: Foundation for this.

7 MJ: Well, first of all, do you know?

8 WIT: I do not know exact months for full vesture no.

9 MJ: All right. Move on.

10 Q. Sir, I want to clarify one thing you testified on direct.

11 You testified that PFC Manning had two narcissistic personality

12 traits?

13 A. Consistently, yes. Under duress he would have more that

14 become manifested.

15 Q. And the first one was grandiosity?

16 A. That's correct.

17 Q. And was the second one arrogance and haughtiness?

18 A. Correct.

19 Q. Sir, you met with PFC Manning for the first time around

20 October 2011?

21 A. I believe that's correct, yes.

22 Q. So, the first time you met him was after he was accused of

23 compromising classified information?

1 A. Yes, most definitely.

2 Q. Thank you. Sir, you also testified about post-adolescent
3 idealism?

4 A. Yes.

5 Q. What is the age range for post-adolescent idealism?

6 A. It's a phase of adult development, early adult development,
7 late adolescent development, so anywhere between 18 to 24 generally
8 is when those kind of ideas start coming forward.

9 Q. Sir, about how many 18 to 24 year old adults go through a
10 post-adolescent idealistic phase?

11 A. I think many and varying degrees are another reasonable
12 percentage, certainly. It's common. It's considered normal
13 development.

14 Q. Thank you, sir. Let's talk a little about PFC Manning's
15 awareness of his effects of his misconduct. Sir, you reviewed the
16 chat logs between PFC Manning and Adrian Lamo?

17 A. I have.

18 Q. Does PFC Manning show awareness of the effects of his
19 misconduct in those chats?

20 A. In some fashion, yes.

21 Q. Sir, does PFC Manning's comment about the recall of the
22 U.S. Ambassador from Iceland show he understood the effect of the
23 cable he compromised?

1 A. Yes, it would.

2 Q. And, sir, does PFC Manning's comment that Secretary Clinton
3 would have had a heart attack show that PFC Manning was aware his
4 misconduct was having wide ranging effects?

5 A. Yeah, I think it definitely manifest the Secretary of State
6 wouldn't be happy with what he did.

7 Q. And finally, sir, does PFC Manning's comment that he had
8 made a mess demonstrate that he knew his misconduct was illegal?

9 A. I think there's no question he knew what he was doing was
10 illegal.

11 Q. And, sir, in the course of his discussion consequences of
12 in his misconduct with Mr. Lamo, does he note any positive effects?

13 A. I don't remember specifically if those are in there or not,
14 honestly.

15 Q. Sir, do you believe personal recognition was a factor that
16 motivated PFC Manning's misconduct?

17 A. I don't think that was his driving factor, no. As far as -
18 - from my assessment of personality I wouldn't say that would be one
19 of the leading factors of what he was doing. In fact, his being
20 cautious in many respects was to maintain his anonymity.

21 Q. And caution shows a reasonable decision making process?

22 A. Yeah; sure.

1 Q. But would you say personal recognition, I know you said it
2 didn't play an immediate factor, would you say it played any factor
3 at all?

4 A. It would be tough to say any at all. That's an extreme of
5 -- I don't know if I would say that.

6 Q. Sir, would you agree that PFC Manning conducts for certain
7 topics exhaustive research?

8 A. Well, sure, as an analyst that's his job, right.

9 Q. And he can be very deliberate and calculating?

10 A. Sure.

11 Q. Sir, assuming PFC Manning researched who Adrian Lamo was
12 and PFC Manning -- assuming PFC Manning knew Adrian Lamo was a
13 hacker, was PFC Manning seeking recognition and validation when he
14 talked to Mr. Lamo and told Mr. Lamo that PFC Manning had a
15 relationship with Julian Assange?

16 CDC[MR. COOMBS]: Objection, Your Honor. Compound. So if we
17 could -- I'm not sure I follow that question.

18 MJ: Well, does the witness follow it?

19 WIT: Not entirely. If you could break it down a little
20 bit.

21 ATC[CPT von ELTEN]: Sure.

22 MJ: Okay. Why don't you go ahead and do that.

1 Q. So the assumption is that PFC Manning has researched Mr.
2 Lamo as a hacker?

3 A. Yes. He was familiar with who Adrian Lamo was. He did
4 research on him.

5 Q. Was he seeking recognition and validation from Mr. Lamo
6 when he said, I have a relationship with Julian Assange?

7 A. I don't know recognition. Definitely he was looking for
8 validation about what he did. There is some evidence that he felt he
9 created a mess and he had some thought process at that time to ensure
10 in his own mind if he had done the right thing by his moral
11 standards. And I think he was looking for validation from Adrian
12 regarding that.

13 Q. Sir, when was the last time you spoke with PFC Manning
14 professionally?

15 A. It's been over a year. I left Active Duty in July of last
16 year. It was prior to that. Probably by a month or 2 is my guess.
17 Maybe even more.

18 Q. Sir, in your professional opinion, and based on your
19 experience of PFC Manning, do you believe he would commit misconduct
20 again?

21 CDC[MR. COOMBS]: Objection, Your Honor. Relevance.

22 ATC[CPT VON ELTEN]: It goes to rehab -- rehabilitation under
23 R.C.M. 1001(b) (5).

1 MJ: All right.

2 WIT: A recidivism assessment is an assessment that I did not
3 formally do. That's usually a separate full evaluation. So, it
4 would be very difficult for me to answer that with any degree of
5 reasonable -- medical reasonable certainty based on that. Recidivism
6 evaluation is usually a separate evaluation that's done in these
7 types of things.

8 Q. Sir, assuming PFC Manning in the future were to see
9 something that violated his sense of morality, would he take action
10 to correct that?

11 A. I don't know if he would. I think historically Manning has
12 been pretty true to his principles.

13 ATC[CPT VON ELTEN]: Thank you.

14 CDC[MR. COOMBS]: No redirect, ma'am.

15 **[There was a disturbance in the gallery.]**

16 MJ: Members of the gallery.

17 I have a few questions for you.

18 WIT: Yes, ma'am.

19 **EXAMINATION BY THE COURT-MARTIAL**

20 **Questions by the military judge:**

21 Q. You spoke at the beginning of your testimony about there
22 were two different approaches that you have where you're an advocate
23 for the patient and where you are doing a forensic evaluation for the

1 Court. In your testimony today which hat are you wearing or a
2 combination of both?

3 A. No, not a combination of both. No, ma'am. I have no
4 doctor/patient relationship with PFC Manning. I'm advocating to my
5 observations and my opinion but I'm not advocating for him
6 specifically.

7 Q. So in what you testified today in preparation for it, did
8 you do it like you would do for an evaluation, if you were asked to
9 do an evaluation by a Court.

10 A. Yes, yes, ma'am, absolutely.

11 Q. You also testified earlier about someone with gender
12 dysphoria. You don't want to move quickly in those cases because the
13 gender dysphoria might lift. With people, does it lift?

14 A. It doesn't lift, per se. I assume I am supposed to talk in
15 the microphone. It doesn't lift per se, a lot of times people want
16 to stop short of full transition to the opposite gender. The
17 surgeries are not exact by any stretch and a lot of times people
18 decide they don't want to proceed surgically. It's important to make
19 sure that before they go that route, because it's not something
20 easily reversed, honestly it's not something that's really reversible
21 at all. But that's very clear and they spend a period of time living
22 in that other gender role. They know what they want to do. If they
23 want to choose to stop short of surgery and just dress as a female or

1 take hormone supplementation or anywhere along that line, that they
2 have -- don't make any decisions that are irreversible until they
3 know for sure that that's what they really want to do. So, that's
4 why you need to proceed cautiously and slowly. And also make sure
5 there are other factors are clearly out of the way. So sometimes
6 there's times exploring childhood experiences and some psychodynamic
7 therapy that often takes place before a decision is made and made
8 confident that that's what they want to do as far as transitioning
9 gender. But the dysphoria, it can lift as they try to understand
10 things they decide, okay, I want to dress as a female, remove my
11 secondary facial hair and things like that. I want to take hormones,
12 but surgically I want to stop short because I looked at the outcomes
13 and I'm comfortable where I am and my anatomy that works and things
14 like that. So it's a decision that should be made over time with
15 intense psychotherapy.

16 Q. Just clarify something for me. Did you have any testimony
17 about whether PFC Manning had anything about Autism.

18 A. PFC Manning has some features of Asperger's, which falls
19 under the pervasive development delay spectrum, mostly with his
20 inability to pick up on social cues and misreading social
21 interactions. That was prevalent through the peer interviews, his
22 family interviews and so forth. He's always had a lot of difficulty
23 picking up on social skills, and that is common in the Asperger's.

1 His sister particularly I think pointed out probably at best where he
2 would just really try really hard to fit into a social situation or
3 conversation and insert himself, it was awkward, people would make
4 fun of him and he would shy back and make him more isolative. This
5 was prevalent in adulthood. It falls short of Asperger's for sure.
6 He doesn't at baseline have any stereotypies, which are the
7 repetitive movements. Now those can come out under duress, for
8 example, in the incident where prior to striking Specialist Showman,
9 was found to be rocking. And rocking is a common stereotypy.

10 Q. What is a stereotypy?

11 A. A stereotypy is a repetitive or stereotypical movement. So
12 rocking, for example, in autism is a very stereotypical movement
13 where a person will rock back and forth in order to self-soothe. And
14 people who fall short of that diagnosis sometimes manifest
15 stereotypies like that, but not routinely and not commonly. Only
16 under circumstances of a particular duress.

17 Regarding the -- if I may, I mentioned something about
18 fetal alcohol. Did you want me to comment on that?

19 Q. Yes.

20 A. Okay. I know I'm not supposed to ask questions. Regarding
21 fetal alcohol syndrome, he was exposed to a significant amount of
22 alcohol in utero by his mother, who was quite a severe alcoholic and
23 did not know or reveal that she was pregnant to anyone until the

1 second trimester, near the third trimester actually, almost 6 months,
2 and was drinking quite heavily in those first 6 months of pregnancy.
3 Continued to smoke throughout the pregnancy. He was born
4 significantly underweight. He was just over 6 pounds. Although that
5 was a full term birth as well. And he has facial features of fetal
6 alcohol syndrome. In addition to his small stature. He lacks a
7 vermillion border, which is -- well, he has a thin vermillion border,
8 which is the upper ridge of the lip common characteristic of fetal
9 alcohol, as well as the fulcrum, which is this groove from the nose
10 to upper lip. And that is minimal and absent, which is also common
11 facial features. In meeting PFC Manning, that is one of the first
12 things I picked up on. They also mention that in the 706 when they
13 met him, facial features.

14 Regarding his intellect, I didn't do the intelligence
15 sensing myself. It was in the 706 board. Some of his intelligence
16 findings also could be suggestive kind of pattern of fetal alcohol.
17 Though minor. His intelligence, as far as acquisition of knowledge,
18 book knowledge is quite high. But comparatively his ability to apply
19 that knowledge into logical and rational outcomes is much lower than
20 would be expected for someone with his given intelligence.

21 MJ: Thank you. Any follow up based on that?

22 CDC[MR. COOMBS]: No, Your Honor.

23 ATC[CPT VON ELTEN]: No Your Honor.

1 [The witness was temporarily excused, duly warned, and withdrew from
2 the courtroom.]

3 CDC[MR. COOMBS]: Your Honor, the defense calls Ms. Casey
4 Major Manning to the stand.

5 CASEY M. MANNING, civilian, Oklahoma City, Oklahoma, was called as a
6 witness for the defense, was sworn, and testified as follows:

7 DIRECT EXAMINATION

8 Questions by the civilian defense counsel [MR. COOMBS]:

9 Q. Casey, how long have you lived in Oklahoma City?

10 A. I have been back in Oklahoma City about 7 years.

11 Q. And are you married?

12 A. Yes.

13 Q. And what does your husband do for a living?

14 A. He is a tax attorney and CPA.

15 Q. How many children do you have?

16 A. I have two.

17 Q. What are their ages?

18 A. I have a three old daughter and a one year old son.

19 Q. And do you work outside the home?

20 A. I am full time stay-at-home mom.

21 Q. So you work hard, then?

22 A. Yes.

23 Q. Casey, you are Brad's sister?

1 A. Yes.

2 Q. And my understanding is that you were born in 1976?

3 A. Yes.

4 Q. In December of 1976?

5 A. Yes.

6 Q. And your parents were married in July of 1976?

7 A. Yes.

8 Q. I want to ask you a few background questions about your
9 parents, okay?

10 A. Okay.

11 Q. Can you tell us about your mother's family, just in
12 general?

13 A. She has a large family. I think it was like one of nine.
14 She has a bunch of sisters and a brother. And, of course, we have
15 cousins and that sort of thing. So, it's a large family. They are
16 over there in the United Kingdom in Wales.

17 Q. And did your mother ever learn to read or write?

18 A. I know she can read. I'm not too sure about the writing
19 part. I have seen her write her name before and maybe one or two
20 words, but nothing extensive.

21 Q. Can you tell us about your father's family?

1 A. My dad's family is a little bit smaller. He has or had,
2 one of his brother passed away, two brothers and then an older
3 sister.

4 Q. Did either of your parents from your perspective have a
5 problem with alcohol?

6 A. Yes. Both of them.

7 Q. When was the first time that you were aware that either one
8 of them had a problem with alcohol?

9 A. Well, growing up, you know, when you're around all the time
10 you kind of think it's normal, so probably 12 or 13, 14 is when it
11 started to dawn on me that they had a problem with alcohol.

12 Q. And what would your mother drink?

13 A. My mother would drink hard liquor usually mixed with Coca
14 Cola, something like that, usually rum or vodka. If you put vodka in
15 certain drinks, you can't smell it. So usually it was rum and coke
16 or vodka and something else.

17 Q. How often have you seen your mother drunk?

18 A. Too many to say.

19 Q. From your perspective how often would your mother be drunk?

20 A. At least every day.

21 Q. And what about your father?

22 A. My dad, during the week I would say he was a functional
23 alcoholic. He would drink at night but not to the point where he

1 wouldn't be able to get up for work the next day. So I mean -- and
2 on weekends he would drink harder, you know, the weekend to relax.
3 He wouldn't have to go to work. But then my mom was a little bit --
4 obviously harder drinker.

5 Q. And how would alcohol affect your mother from your
6 perspective?

7 A. Well, she was very social, very friendly at the beginning.
8 And then, as the evening wore on, or the day and evening wore on, she
9 became more sad, depressed. She would call friends late at night to
10 talk.

11 Q. And what about in the morning?

12 A. In the morning, when she got up, usually it was midmorning
13 or lunchtime, she was mean, very mean -- yelled, screamed at you to
14 get her cigarettes. I mean she would yell from the other room to get
15 her cigarettes or make her a cup of tea or something like that. I
16 assume it's because she had a hangover. That's why she was so mean.

17 Q. How would alcohol affect your father?

18 A. He was pretty jovial and then get a little bit, probably a
19 little bit more quiet.

20 Q. When would your mother start to drink during the day?

21 A. Probably -- it seemed like it was lunchtime, noonish,
22 11ish. I mean, usually she started off pretty early. It just kind
23 of depended on the day. Usually it was pretty early.

1 Q. And once your mother started drinking on a particular day,
2 did she stop?

3 A. Not that I recall. It was continuous until she passed out
4 or went to bed.

5 Q. When did you find out your mother was pregnant with your
6 little brother Brad?

7 A. We went on a trip to California to visit my aunt. It was
8 my cousin's first birthday. So it was May, end of May of 1987, and
9 he was born in December.

10 Q. Was your mother drinking alcohol at the time?

11 A. Yes.

12 Q. And did your mother continue to drink alcohol after she
13 found out she was pregnant?

14 A. Yes, but not as much from what I can remember.

15 Q. Do you recall how far along your mother was at the time she
16 found out she was pregnant?

17 A. Let's see [counting to herself] at least through the first
18 trimester. I'm assuming he would have been, I wasn't there, but I'm
19 assuming the conception was sometime in March. So if he was full
20 term in December, then conception in March. So April, May, June -- I
21 think we came back in June, so that would have been the end of her
22 first trimester, beginning of her second trimester. We got off the

1 airplane and my dad had commented to my mom that it looked like she
2 had put on weight.

3 Q. Do you recall how long after that she found out she was
4 pregnant?

5 A. I don't. I just think, you know, because I was 10, so I
6 don't remember exactly when I was told that she was expecting. But
7 it was sometime then, maybe later.

8 Q. How old were you when Brad was born, when PFC Manning was
9 born?

10 A. He was born on my 11th birthday.

11 Q. Who took care of your brother when he was a baby?

12 A. My mom. But mostly me if, you know, she couldn't or
13 wouldn't get up. Like if he cried in the middle of the night I would
14 get up and make a bottle, change a diaper, rock him back to sleep.
15 When I was, you know, I was there so ----

16 Q. And why were you having to do that?

17 A. My mom wasn't getting up. My dad wasn't getting up.

18 Q. Was that due to the alcohol?

19 A. I'm assuming, yes. I mean, if she was in the living room
20 drinking, and she was conscious, she would attend or, you know, if I
21 was awake and he was crying, she would direct me to go take care of
22 my brother.

1 Q. Did things improve as your brother got older with your
2 mother's drinking?

3 A. No.

4 Q. Who would take care of your brother as he got older?

5 A. I would when I wasn't at school. If I was home, I took
6 care of him. We moved the summer of 1988, so he was about 6 months
7 old. And that whole summer I took care of him. I remember we were
8 staying at a hotel because my dad was changing jobs and we moved and
9 my mom wasn't getting up until, you know, 1:00 or 2:00 o'clock, and
10 then, when she got up, I was excited because I could go swim in the
11 swimming pool for a bit to be a kid at least for a little bit.

12 Q. Now you said you moved. Where were you living before you
13 moved?

14 A. We lived in Crescent. Then we moved to Arizona, to
15 Phoenix, and we were staying at a hotel. We stayed there for about a
16 month. And then we moved into a rental house.

17 Q. And how long did you live in Phoenix?

18 A. We lived in Phoenix -- we moved in Phoenix the summer of
19 1988 and we came back just before Brad's third birthday. So I think
20 that was December of '91.

21 Q. And when you say Crescent, is that Crescent, Oklahoma?

22 A. Yes, Crescent, Oklahoma.

23 Q. When you say you came back, was that back to Crescent?

1 A. Yes.

2 Q. Now with regards to Crescent, where were you living at in
3 Crescent, Oklahoma?

4 A. We were four miles north and four miles west of the city of
5 Crescent. So, in a relatively rural area.

6 Q. Did you have any neighbors where you lived?

7 A. The closest neighbor was a fourth of a mile away. But then
8 other neighbors were further out.

9 Q. When did you learn to drive?

10 A. 16 or 15 and half. Well, legally. I learned to drive when
11 I was 11.

12 Q. All right. And did your mother ever learn to drive?

13 A. No.

14 Q. Do you know why not?

15 A. I don't think she had the desire to. We had put her behind
16 the wheel a few times. But she got real nervous, my dad and I --
17 because you are driving around on a dirt road. She got real nervous
18 so we just kind of pulled off and she just didn't want to drive. It
19 just made her nervous.

20 Q. How would you describe Brad's childhood up to the point
21 where you are about 15-16?

22 A. From birth to 15-16?

1 Q. Just in -- Yeah, just in -- No. At the time that you are
2 about 15-16?

3 A. Oh, the time that I'm about 15-16. Okay. So if I'm 15,
4 minus 11, he was 4-ish. Happy kid, you know, played outside quite a
5 bit. He had little trucks that he would play in the dirt and running
6 around.

7 Q. Did he have a lot of playmates?

8 A. Not at that time because we were back in Oklahoma. When we
9 lived in Phoenix, when he was younger, before the age of 3, my mom
10 babysat some other children and he was able to play with them a
11 little bit. But I was his primary playmate when he was little.

12 Q. Did there come a time when you moved out of the house?

13 A. Yes. I was ----

14 Q. How old were you?

15 A. I was 18 and a half.

16 Q. Why did you move out of the house at that point?

17 A. I had a disagreement with my dad.

18 Q. Where did you go?

19 A. I moved in with a friend for a little bit and then I got my
20 own apartment.

21 Q. What were you doing during this time period, the period
22 when you moved out?

23 A. I was going to school and working.

1 Q. Did you see your brother much during this time period?

2 A. No, I did not.

3 Q. And why not?

4 A. I had a falling out with my dad, so I didn't want to be

5 around my dad or my mom. I missed my brother terribly, but I just

6 didn't want to be around my parents.

7 Q. And how old was Brad at this time, when you moved out?

8 A. I think he was -- He would have been 8.

9 Q. With regards to your dad, what type of job did he have?

10 A. Originally he was a computer programmer. Then he became

11 project leader, project manager for -- in computers mostly.

12 Q. What company did he work for?

13 A. Hertz Corporation.

14 Q. Did his job involve a lot of travel?

15 A. Yes, later on. As Brad got older, there was more travel.

16 Q. Now when you were out of the house and if your dad was

17 traveling at all, who was taking care of your brother?

18 A. My mom.

19 Q. And do you know if your mother cooked for your brother?

20 A. I remember we had a Fry Daddy and Brad liked fried foods.

21 So she would fry some foods for him periodically. But mostly what he

22 had were the kids cuisine things that you pop in the microwave. So

23 she would cook those.

1 Q. Did you ever move back into the house?

2 A. I did.

3 Q. And when was that?

4 A. I'm trying to remember. I think it was the summer of '98.

5 Q. Why did you move back in the house?

6 A. My dad had contacted me, because my dad and mom were not
7 getting along. And he thought it would be easier to have me kind of
8 help out with, you know, my mom and my brother. But I think I was
9 just being set up.

10 Q. Why do you say that?

11 A. I think I was being set up by my dad so he could leave.

12 Q. And did you move back in?

13 A. I did.

14 Q. And did your dad leave?

15 A. Yes.

16 Q. How did this impact your mother?

17 A. My mom -- My dad told my mom she was leaving -- or my dad
18 told my mom he was leaving and my mom took a bottle of Valium, a full
19 bottle of Valium. And then she was drinking heavily at that time,
20 took a full bottle of Valium. And then she woke me up in the middle
21 of the night and told me that she had done it to kill herself. So I
22 called Poison Control and they told me to take her to the nearest
23 hospital.

1 Q. And what happened?

2 A. I woke my dad up and then woke Brad up, and told him we
3 needed to take her to the hospital. It's a rural area, so the
4 ambulance would have taken way too long to get there. So we just
5 went. We got to the car. My dad tried to get in the front seat and
6 I told him, I said, no, you need to get in the back to make sure she
7 is breathing and check her pulse and make sure she's breathing. He
8 said, no, that he didn't want to sit back there. So, unfortunately
9 my 12-year old brother had to go back there and make sure his mom was
10 still breathing the car ride over. And my dad didn't want to drive
11 because he had been drinking. So I had to drive.

12 Q. What happened to your mother?

13 A. My mom got to the -- We got to the emergency room. They
14 had her stomach pumped and then she was admitted into the psychiatric
15 ward.

16 Q. How long did she stay there?

17 A. Best I can recall, a week.

18 Q. And how did your father respond at this time?

19 A. He left.

20 Q. And how was your mother during this time?

21 A. Well, I visited her once in the psychiatric ward. I had to
22 drop off some toiletries and that sort of thing. She seemed like she
23 was doing better when she was in there.

1 Q. And how often, I guess, when your mother was released from
2 the psychiatric ward, what happened to her?

3 A. She came back. They had put her on Paxil, which is a, from
4 my understanding, an antianxiety medication and things were okay. I
5 was making sure she was taking her medication for about a week and
6 then it got bad again. I was trying to go to class or work. And
7 then anytime I would try to leave, she would tell me, if I left, she
8 was going to kill herself.

9 Q. And how often did your mother threaten to kill herself?

10 A. It was every day.

11 Q. What would you do when she did that?

12 A. Well, I tried to stay there and not go to class and call in
13 sick to work as much as I could. I missed a lot of class. I ended
14 up having to go to the school and talk to them. And they luckily
15 were nice enough to let me withdraw without penalty for my classes.
16 And then it got to the point where I ended up, she was just
17 claiming to kill herself so many times, or telling me she was going
18 to kill herself so many times, I ended up just -- I had to leave. I
19 had to work. So I just left her.

20 Q. When you left, where did you go?

21 A. When I went to -- I just went to work first.

22 Q. Where was Brad when you went to work?

1 A. Brad was either at school or at home depending on the day
2 of the week.

3 Q. And during this time was your mother drinking?

4 A. Yes.

5 Q. And would your mother ever become violent when she was
6 drinking?

7 A. Yes, with me.

8 Q. And how so?

9 A. One night she had been drinking heavily. I don't remember
10 what the argument was, but she had come at me. And I put up my hands
11 defensively and kind of pushed her. And she's not very big. She's
12 little. And when I pushed her, since she was so drunk, she fell
13 over. And because I thought she was going to hit me. She was going
14 to attack me. She came at me. So I kind of pushed her away. She
15 fell and hit her tailbone. And she was laying on the floor. And I
16 turned and Brad was right there. He had seen the whole thing. And I
17 told him to go back to bed. And I asked her if I could put her in
18 bed. She's screaming profanity at me, saying to leave her there,
19 don't touch me. So I got the blanket off her bed and threw it on
20 her. And then I told Brad, I said, just leave her, you know, she
21 doesn't -- I tried to call an ambulance. She said she didn't want to
22 call an ambulance. I just left her. I went back up in my room,
23 because my room was on the second floor and his room was on the first

1 floor, told him, just leave her be. And then just a few minutes
2 later I could hear her calling Brad, Brad. And Brad had gone in
3 there and she was wanting him to get her drink that was over there on
4 the table. And I told Brad, I said, don't get her drink. I said,
5 you can either stay in your room and ignore her or you can come up in
6 my room and sleep on the floor. He chose to sleep on the floor that
7 night. And then the next day she asked me to leave.

8 Q. How old was Brad during this time?

9 A. Let's see, I have it all. I think he was like 12 and a
10 half, 13, something like that.

11 Q. You said the next day you were asked to leave?

12 A. I was asked to leave. I didn't leave immediately because I
13 had two horses I had to hurry up and sell because they were on the
14 property. It took a little while for me to get out. I got out
15 eventually.

16 Q. Now, when you left, who was with your mother other than
17 Brad?

18 A. Other than Brad. It was just her and Brad.

19 Q. Do you know what Brad was doing this time, when you were
20 out of the house?

21 A. No.

22 Q. Did your brother have any friends at that time?

1 A. I've heard stories of him having friends, but I never knew
2 any of their names or met any of them.

3 Q. Did you ever try to take your brother out of the situation
4 once you moved out of the house?

5 A. He came and visited me a few times, but it was just kind of
6 hanging out. I took him to laser tag. He would come to my work. I
7 worked at a pet store and he's a kid so it is kind of fun for him to
8 hang out in a pet store, just kind of hang out with me a little bit,
9 but not long-term.

10 Q. Did there come a time when your mother decided to move back
11 to Wales?

12 A. Yes.

13 Q. And when was that?

14 A. That was the fall of 2001.

15 Q. How did you feel about your mother and your brother moving
16 to Wales?

17 A. I was devastated.

18 Q. Why?

19 A. I missed my brother. I was worried that she would lean on
20 him very heavily, like she had always leaned on me. And I didn't
21 want my brother to go, but I was, you know, in school and working,
22 and they are not going to give custody to me.

23 Q. How old were you at that time?

1 A. Let's see if he was 13, I would have been 24.

2 Q. When your brother and mother moved back to Wales, when was

3 the next time you saw them?

4 A. At my wedding in '04. He was 17.

5 Q. Were you able to spend much time with him at your wedding?

6 A. No, not due to the wedding, because all of the wedding

7 stuff.

8 Q. Did your father come to the wedding?

9 A. He did.

10 Q. Did he have anyone with him?

11 A. He had his new wife and her son.

12 Q. How soon after leaving your mother did your father remarry?

13 A. It was about a year.

14 Q. At the wedding did your father spend much time with your

15 brother?

16 A. Not that I'm aware.

17 Q. Did there come a time when you found out that your brother

18 was actually going to be moving back to the United States?

19 A. Yes.

20 Q. And when was this?

21 A. That was I think the spring of '05.

22 Q. How did you feel about your brother coming back to the

23 United States?

1 A. I was excited, because I wanted to be around him. But I
2 was a little worried because he was going to move back in with my
3 dad. They hadn't been in the same household for years and the whole
4 step mom situation.

5 Q. Why were you worried about that?

6 A. I was just, you know, just a step mom and my dad and I was
7 worried about him. She didn't like me, so I'm assuming she wouldn't
8 like having another woman's child in her house.

9 Q. Did that prove to be true?

10 A. Yes.

11 Q. How long did your brother live with your father before he
12 was kicked out of the house?

13 A. I think it was about a year, but I'm not 100 percent sure.
14 Maybe less than that. I don't know.

15 Q. Do you know where your brother went after being kicked out
16 of the house?

17 A. He came and lived with me just for a couple days and then
18 he left again.

19 Q. Why did he only stay with you for a couple of days?

20 A. He didn't want to be a burden to me. My husband and I had
21 a one-bedroom apartment and he was sleeping on the couch and he
22 didn't want to be a burden.

23 Q. How old is your brother at this point?

1 A. He would have been -- I think he was 18.

2 Q. Where did your brother go after he left your place?

3 A. He told me he went to Tulsa.

4 Q. Did you have much contact after he left?

5 A. Periodically I would get hold of him, but not a whole lot.

6 Q. What I want to do is show you a few photographs. Casey, if
7 you would, can you tell us what that photograph depicts?

8 A. My brother about 6 months old. We were living in the hotel
9 in Phoenix. And I found a box and I was scooting it around on the
10 floor and he was playing in it.

11 Q. And how about that one?

12 A. He was just learning how to walk.

13 Q. Where was that photograph taken?

14 A. That was Phoenix at the rental house. That was my room in
15 Phoenix and he was hanging out in there playing on the saddle I had.

16 Q. Is this your room?

17 A. Yeah. I was really into horses.

18 Q. And the next photograph?

19 A. That was my senior prom and then it's got my mom and little
20 brother and my dad.

21 Q. At this point your mother, is she intoxicated at all at
22 this point?

1 A. She had probably had a little bit to drink. She has
2 Rosacea on her face and a lot of times when you drink and Rosacea
3 pops out even more. So I'm assuming she had -- she wasn't
4 intoxicated, but she was probably giddy.

5 Q. The next photograph?

6 A. That's my brother kind of in the front area of the pasture.

7 Q. Is this Crescent?

8 A. That's in Crescent, yes.

9 Q. And how much land did you have in Crescent?

10 A. We had five acres. It included a pond.

11 Q. Next photograph.

12 A. Sorry for the blurriness. I took that with a new camera.

13 That was out in the pasture with the swing set, he's swinging.

14 Q. Is this also on the property?

15 A. Yes.

16 Q. And this photograph?

17 A. That's one of his grade school photos. I'm not sure what
18 grade that is. Maybe 2nd or 3rd grade, I'm not sure.

19 Q. Did Brad play any sports at that time?

20 A. I don't think so. I don't recall.

21 Q. Do you know why not?

22 A. Huh?

23 Q. Do you know why he wouldn't play sports at that point?

1 A. I didn't play any sports in school so maybe he didn't play
2 any for the same reason, that driving back and forth was an
3 inconvenience.

4 Q. How far away was this school from your home?

5 A. Four miles.

6 Q. This photograph?

7 A. It's my brother, a new puppy I got and the cat.

8 Q. Where was this photograph taken?

9 A. This is in Crescent in the yard. He loved that puppy.

10 Q. This photograph?

11 A. That's a snapshot I took of him playing on the computer.

12 Q. How often did Brad play on the computer?

13 A. I mean anytime I can remember from a certain age on he was
14 at the computer. If he wasn't at the computer, he was in his room
15 playing Legos or the computer.

16 Q. And this photograph?

17 A. That's my wedding. That was in Vegas in '04, December of
18 '04. I hadn't seen him in years so ----

19 Q. Why did you choose Vegas?

20 A. Well, we had a lot of people flying in and we thought
21 people that would fly in would rather fly into Vegas than Oklahoma
22 City. And my husband was in law school and he wanted to get married
23 during break. We didn't want to wait for the summertime. So we --

1 In Vegas -- In Oklahoma City we couldn't book anything on such short
2 notice, we were only engaged 6 months, and in Vegas they could book
3 it. And it was New Year's Eve, so it was a lot of fun.

4 Q. And this photo?

5 A. That was December of '06, Thanksgiving, that's at my Aunt
6 Debbie's house.

7 Q. Casey, I'm handing you Defense Exhibit WWW for
8 Identification. Can you just thumb through that and tell me if those
9 are the same photographs you just talked about?

10 A. Yes.

11 CDC[MR. COOMBS]: I'm retrieving Exhibit WWW for
12 Identification, and offer it into evidence as Defense Exhibit WWW.

13 ATC [CPT OVERGAARD]: No objection.

14 MJ: All right. Defense Exhibit WWW is admitted.

15 Q. Casey, have you been able to stay in touch with your
16 brother over the past 3 years?

17 A. Periodically, yes.

18 Q. Have you noticed a change in your brother over the past 3
19 years?

20 A. Yes.

21 Q. How so?

22 A. He has matured. I mean it's amazing how much he has
23 matured. He's settled down. It's a lot easier to carry on a

1 conversation with him. I mean he was so young. Three years is a
2 long time. So he has really matured.

3 Q. What is your hope for your brother's life now?

4 A. I just hope he can be who he wants to be. I hope he can
5 just be happy.

6 CDC[MR. COOMBS]: Thank you. No further questions.

7 MJ: Cross-examination?

8 ATC[CPT OVERGAARD]: No, ma'am.

9 MJ: All right. Temporary or permanent excusal?

10 CDC[MR. COOMBS]: Permanent, Your Honor.

11 **[The witness was permanently excused and remained in the courtroom.]**

12 CDC[MR. COOMBS]: Your Honor, can we have a 10-minute comfort
13 break?

14 MJ: Certainly. Court is in recess until 5 minutes to 4:00 or
15 1600.

16 **[The court-martial recessed at 1545, 14 August 2013.]**

17 **[The court-martial was called to order at 1559, 14 August 2013.]**

18 MJ: Court is called to order. Let the record reflect all
19 parties present when the court last recessed are again present in
20 court. Mr. Coombs, are you ready to proceed?

21 CDC[MR. COOMBS]: Yes, Your Honor. The defense calls PFC
22 Bradley Manning to the stand for an unsworn statement.

1 PFC BRADLEY MANNING, the accused in the case, was called as a witness
2 by the defense and made the following unsworn statement:

3 **UNSWORN STATEMENT**

4 **Questions by the civilian defense counsel [Mr. COOMBS]:**

5 Q. PFC Manning, did you make a determination that you would
6 like to make an unsworn statement?

7 A. Yes, sir.

8 Q. Was that your decision?

9 A. Yes, sir, it was.

10 Q. Have you prepared something that you would like to say?

11 A. Yes, yes. Yes, I have, sir.

12 Q. Please.

13 A. First, Your Honor, I want to start off with an apology.
14 I'm sorry. I'm sorry that my actions hurt people. I'm sorry that it
15 hurt the United States. At the time of my decisions, as you know, I
16 was dealing with a lot of issues, issues that are ongoing, and they
17 are continuing to affect me. Although they have caused me
18 considerable difficulty in my life, these issues are not an excuse
19 for my actions. I understood what I was doing and the decisions I
20 made. However, I did not truly appreciate the broader effects of my
21 actions. Those effects are clear to me now through both self-
22 reflection during my confinement in its various forms and through the
23 merits and sentencing testimony that I have seen here.

1 I'm sorry for the unintended consequences of my actions.
2 When I made these decisions, I believed I was going to help people,
3 not hurt people. The last few years have been a learning experience.
4 I look back at my decisions and wonder how on earth could I, a junior
5 analyst, possibly believe I could change the world for the better
6 over the decisions of those with the proper authority. In retrospect
7 I should have worked more aggressively inside the system. As we
8 discussed during the providence statement, I had options and I should
9 have used these options. Unfortunately, I can't go back and change
10 things. I can only go forward. I want to go forward.

11 Before I can do that though, I understand that I must pay a
12 price for my decisions and actions. Once I pay that price, I hope to
13 one day live in a manner that I haven't been able to in the past. I
14 want to be a better person, to go to college, to get a degree and to
15 have a meaningful relationship with my sister, with my sister's
16 family and my family. I want to be a positive influence in their
17 lives, just as my Aunt Debra has been to me. I have flaws and issues
18 that I have to deal with, but I know that I can and will be a better
19 person. I hope that you can give me the opportunity to prove, not
20 through words, but through conduct, that I am a good person and that
21 I can return to a productive place in society. Thank you, Your
22 Honor. That's it.

1 CDC[MR. COOMBS]: PFC Manning, if you would please resume your
2 seat.

3 [The accused resumed his seat at counsel table.]

4 CDC[MR. COOMBS]: Your Honor, the defense calls Ms. Debra Van
5 Alstyne to the stand.

6 DEBRA VAN ALSTYNE, civilian, Potomac, Maryland, was called as a
7 witness for the defense, was sworn, and testified as follows:

8 DIRECT EXAMINATION

9 Questions by the civilian defense counsel [Mr. COOMBS]:

10 Q. Debbie, how long have you lived in Potomac, Maryland?

11 A. About 19 years.

12 Q. And you're married?

13 A. I am married.

14 Q. What does your husband do for a living?

15 A. He's now retired. He was an aeronautical engineer for
16 Boeing.

17 Q. How many children do you have?

18 MJ: Hold one just a moment.

19 Q. Let's go ahead and back up a little bit. You're married?

20 A. I am married.

21 Q. And what does your husband do for a living?

22 A. He is retired now. He was an aeronautical engineer for
23 Boeing.

1 Q. How many children do you have?

2 A. I have three.

3 Q. What are their ages?

4 A. I have a son who is 28, a son who is 27, and a daughter who

5 is 25. .

6 Q. And do your children still live at home?

7 A. Two of them still live at home. One of them is leaving in

8 a couple weeks to go to graduate school. The third one is moved out,

9 working and getting married in November.

10 Q. And what do your children do?

11 A. My oldest son is a marketing representative for Vogus, a

12 company in Beltsville, Maryland. My son Chris, he did work with the

13 Aspen Institute. Now he's going to be starting a master's degree in

14 Urban Planning at MIT. And my daughter is on a break from Penn

15 State.

16 Q. And you're an attorney?

17 A. I'm an attorney.

18 Q. Where do you work?

19 A. I work for Fannie Mae.

20 Q. How long have you worked at Fannie Mae?

21 A. 13 years.

22 Q. What do you do at Fannie Mae?

23 A. I'm a securitization lawyer.

1 Q. What is that?

2 A. I do securities work for mortgage loans. So we pool them
3 and securitize them and sell them to investors.

4 Q. And Ms. Alstyne -- or excuse me, Debbie, you are Brad's
5 aunt, right?

6 A. I am.

7 Q. And Brad's dad, Brian Manning is your younger brother?

8 A. Correct.

9 Q. Do you know Brad's mother?

10 A. I do.

11 Q. And what is her name?

12 A. Her name is Susan.

13 Q. And when did you meet Susan?

14 A. I first met Susan when she and Brian brought Casey to
15 America for Christmas of 1977. So Casey was about a year old.

16 Q. How did your brother meet Susan?

17 A. My brother was in the Navy and stationed there in, on the
18 coast of Wales. And he apparently was shopping at Woolworth's and
19 Susan was in the Woolworth's and they met there.

20 Q. Where were you living at the time that you first met Susan?

21 A. I was living in Culver City, California.

22 Q. Can you describe Susan based upon your initial impression?

1 A. She seemed like a very nice young lady, very doting on her
2 baby and she and Brian seemed to be happy together.

3 Q. Did you ever visit your brother in Wales?

4 A. I did.

5 Q. And when was this?

6 A. That was in October of 1979. Excuse me. 1978. No, 1979.

7 Q. Do you recall anything unusual during that visit?

8 A. I noticed that -- I thought to me Casey seemed as though
9 she was a little anemic. I didn't have children but she seemed kind
10 of pale. She had a lazy eye when she was a baby. And they were
11 supposed to be getting it fixed and they were going to wait for the
12 Navy to do that. And they hadn't been able to do it at the time,
13 which troubled me a little bit. I know it was difficult for them to
14 take her up to London to get it done, but seemed like it was
15 something they ought to be focused on. The other thing I noticed is
16 that they seemed to -- we were to stay there a couple days and there
17 was definitely drinking going on. I've never been really much of a
18 drinker. I didn't think too much about it. They were young and they
19 weren't driving or anything, so I didn't think too much about it.

20 Q. Now during that time period did you meet Susan's family?

21 A. I did.

22 Q. Can you describe her family?

1 A. I only met them the one time. Her mother had us over for
2 like high tea. I think I met several of her sisters, some of them
3 are older and younger, I met her brother and assorted cousins, there
4 was a big group of them. Seems like they weren't, you know, they
5 didn't have a lot of money but, you know, they seemed, you know,
6 relatively like a normal family.

7 Q. So from what you saw you said they didn't seem like they
8 had a lot of money. What did you base that upon?

9 A. They were living in sort of a row house. I knew that they
10 had all these children and seemed fairly small for having I think
11 nine children.

12 Q. Did your brother ever move back to the United States?

13 A. Yes, he did.

14 Q. And when was that?

15 A. That was the following summer. So I guess early 1980, or
16 Summer of 1980.

17 Q. Where did they move?

18 A. They moved to Huntington Beach, California where we were
19 living at the time.

20 Q. Do you recall any observations that you made when you saw
21 your brother and Susan again in summer of 1980?

22 A. No. At that time they seemed to be fine. Although we had
23 just bought a house and it needed painting. And, you know, we asked

1 them and my other brother, a bunch of people to come and help us
2 paint. And it seemed to me like there was a lot of beer being drunk.
3 But, again, you know, I was busy and I didn't pay that much
4 attention. I'm not a beer drinker so I didn't really keep track of
5 how much was being drunk. It seemed like there was a lot being
6 drunk.

7 Q. Did you ever express any concerns to your brother during
8 the time that he was in California about the amount of alcohol being
9 drunk?

10 A. No, I didn't. I think I really just didn't appreciate how
11 much was probably being drunk. Because, as I said, I didn't really
12 drink much, so I didn't buy liquor, I didn't really pay attention how
13 much was being consumed I guess.

14 Q. How long did your brother live in California?

15 A. They moved to Oklahoma in the summer or fall of 1983.

16 Q. And where did your brother move to?

17 A. They moved to Crescent, Oklahoma.

18 Q. Why did he move to Oklahoma?

19 A. He got a job with Hertz, which was based in Oklahoma City.

20 Q. How many people live in Crescent, do you know, just in
21 general?

22 A. I'm guessing 1000, maybe 2000.

23 Q. Did your brother live inside the community?

1 A. No, they lived in a house outside. He had visions of like
2 running a small farm, I think. Get animals and raise, you know,
3 vegetables and he had pretty good plans.

4 Q. How did Susan deal with being in a small town; do you know?

5 A. I think it was a problem for her because she didn't drive
6 and they were several miles outside town. The nearest neighbors were
7 a ways away. I think she was fairly isolated. That was very
8 different from what she had been used to. In Wales, in Hetherford
9 West she had family, friends everybody walked everywhere, you saw
10 people all the time. And when they lived in Huntington Beach, they
11 lived in a nice apartment complex where, again, Susan had friends, a
12 lot of people around. And I think she is a fairly social person so I
13 think it was probably pretty hard for her.

14 Q. Now did you know what your brother did for Hertz at this
15 point?

16 A. I knew he did computer programming at that point.

17 Q. Do you know how much traveling your brother did for his
18 job?

19 A. I think at that time he didn't do too much. It was short
20 domestic trips, maybe to another city for a couple of days.

21 Q. Did that change over time?

22 A. Yes, that did change.

23 Q. And how so?

1 A. At some point, and I'm not clear exactly when, he started
2 to do international travel. And he would go, they would be working
3 on a project say in Rome, and it was going to be a project that might
4 go a year. So he would go 3 weeks at a time. Then he would come
5 home for a week, and then he would go back for 3 weeks. That went on
6 to different exciting cities around the world for several years.

7 Q. Did Susan go along with him?

8 A. No.

9 Q. How did this impact Susan?

10 A. You know, I didn't really see much of them in those days.
11 So I just, you know, I assumed it was hard on her. My mom would go
12 down and she would say, oh, Brian is away again. My mom would go
13 visit them. But, you know, I just knew she was pretty isolated out
14 there because she didn't drive. And Casey was too young to drive.

15 Q. Did you ever speak with Susan on the phone?

16 A. Once in a while I would talk to her. But that's I think
17 when I first started to think that perhaps there was some kind of
18 drinking problem because she would tend to call in the evening and it
19 would be pretty apparent that she wasn't really making a lot of sense
20 on the phone. And so it kind of got to be sort of a joke, a sad
21 joke, of you don't want to -- if you want to talk to Susan, you
22 should call her and call her during the day. Don't pick up the phone
23 and find out that it's her on the phone at night.

1 Q. Now did Susan ever come to spend time with you?

2 A. Yes, they came -- she and Casey came for about 2 weeks in
3 late May of 1987.

4 Q. And why was she visiting you during this time?

5 A. She just wanted to come out and see friends that she made
6 when she lived there in Huntington Beach and visit us. I don't think
7 there was any particular reason other than just to come and see
8 everybody, see my mom and see all of us.

9 Q. Do you recall anything from this visit about Susan?

10 A. That visit is when I first really noticed that there seemed
11 to be a lot of drinking going on by Susan. I was busy. I had two --
12 she was there for Christopher's first birthday, so I had a 3 year
13 old, 1 year old, I was working part time. But my husband said to me
14 fairly early on, you know, I'm buying a 12 pack of beer every day for
15 Susan. I said, you have got to be kidding. He said, no, I'm not.
16 And so I sort of started to notice that actually there was a lot of
17 beer being consumed. And I didn't really see her with it during the
18 day. I'd see her with it at night. Obviously she had to have been
19 drinking some during the day because she was going through a lot of
20 beer.

21 Q. And did you talk to Susan about how much you noticed she
22 was drinking?

1 A. No. I didn't. I really didn't feel comfortable doing
2 that.

3 Q. How long did Susan and Casey stay with you?

4 A. Well, the total visit was about 2 weeks. They were gone
5 though for 3 or 4 days visiting other friends elsewhere.

6 Q. How old is Casey at this point?

7 A. Casey was 10 or almost 10.

8 Q. Do you recall anything else from this visit that you found
9 out?

10 A. Well, a friend of the people they had gone to visit their
11 child drowned the day after they came back to our house. I do
12 remember that. That was very traumatic. I do remember Susan being
13 on the phone saying, I don't know what to say, I don't know what to
14 say. But other than that, that was the end of the trip. That was
15 kind of traumatic for all of us. The couple and their children had
16 just been at our house the day before dropping off Susan and Casey.
17 And then this little child was dead. So that was pretty traumatic.
18 Casey was pretty upset about it. Susan was pretty upset about it
19 obviously.

20 Q. Once Susan and Casey left, did you get a call from your
21 brother shortly thereafter?

22 A. I did.

23 Q. And why was he calling?

1 A. He called me to say that Susan was pregnant. And, you know
2 I first said, oh, great. Then I thought, oh, no. I said how
3 pregnant? He said, oh, the baby is going to be born in December. I
4 thought to myself, oh, no, because I knew she had been drinking
5 really heavily. And she was already probably through her first
6 trimester.

7 Q. Once Susan and Casey went back to Crescent, did your mother
8 ever go there to stay with her?

9 A. Yes.

10 Q. And when was this?

11 A. She would go -- Usually once or twice a year she would go
12 down for a couple weeks, because at that point, you know, she had
13 been widowed. So she would go down and visit. She was crazy about
14 Susan. Really loved Susan. And she would go down and spend time.
15 And then after Brad was born she went down, I think probably right
16 after he was born to give Susan a hand. Because Susan's mother was
17 not able to come from Wales. So she went down to give her a hand.

18 Q. And did your brother ever move from Crescent?

19 A. They did. They moved to Phoenix.

20 Q. And why did your brother move to Phoenix, did you know?

21 A. He was recruited by U-Haul to head up -- they had some plan
22 to do something computerized with their reservation system, which is
23 what he mainly worked on at Hertz. And so they offered him a job so

1 they moved to Phoenix. They rented out the house in Crescent because
2 he wasn't sure it would work out.

3 Q. Did you see your brother and family during this time when
4 they moved to Phoenix?

5 A. Yeah. They came over a couple of times. They came over
6 once, I think it was for my mother's 70th birthday. So that would
7 have been 1989.

8 Q. Was this the first time you saw Brad?

9 A. I think that was the first time I saw Brad. The thing I
10 remember from that visit and the thing that I talked about and mom
11 and my husband and I all talked about afterwards, was that they were
12 still feeding Brad just baby food. So he was getting on toward 2
13 years old and he was still eating just baby food. Because we said,
14 you know, oh, at that point we had three children and we thought that
15 was very odd and he was so tiny. And said, don't you want to give
16 him, you know, whatever we were having, chicken, whatever. No, no,
17 no, he's happy with the baby food. They would buy those bigger jars
18 of baby food and that's what he was eating. That and milk.

19 Q. How long did your brother live in Phoenix?

20 A. I think they were there until maybe the fall of 1990.

21 Q. Where did they go after that?

22 A. They went back to Crescent.

23 Q. Did your brother stay in the same job?

1 A. He went back to Hertz. I don't know whether it was -- I
2 don't know if it was the same job. I think that may have been the
3 job -- whatever job he got at that point is when he started to really
4 travel internationally.

5 Q. You indicated that -- Well, did you know at that point
6 whether or not that impacted Susan, when he was traveling
7 internationally?

8 A. No, not at that point.

9 Q. Did your mother ever go to Crescent to help Susan during
10 that time period?

11 A. She didn't go right away because she had remarried. And
12 unfortunately her new husband only a few months after they were
13 married, he had a massive stroke. So she stayed home and went over
14 to see him every day for the year that he passed away in August of
15 '91 and then she did go down again. She made a couple more trips.

16 Q. How long did your mom stay down in Crescent?

17 A. She would usually go for 2 or 3 weeks.

18 Q. Did she ever live down there for a period of time?

19 A. She did. In '93, we moved to the East Coast and she moved
20 at the same time. She didn't want to be left in Southern California.
21 I had one brother there but she wanted to be with her daughter I
22 guess. But she only stayed here a few months and she decided she
23 really wanted to be in Oklahoma.

1 Q. And why?

2 A. She had grown up there. And I think she wanted to be able
3 to -- she didn't think she would be able to afford to have her own
4 place in the D.C. area and she knew she could afford a place in
5 Crescent. So she moved to Crescent.

6 Q. And did your mother talk to you at all during that time
7 period about Susan and the family?

8 A. Yes, she expressed misgivings to me periodically about, I
9 really worry about Susan. And Brian came and took us all into
10 Oklahoma City to some grocery store they go to there. And Susan had
11 to stock up basically for like a month. But then, when my mother was
12 there, she brought a car. And so my mother would then go to the
13 local grocery store or take Susan grocery shopping when Brian was
14 away. So she was trying to help her cope. I don't know that my
15 mother was ever, I don't know she was ever really aware of the amount
16 of drinking that was going on. Because my mother wasn't really much
17 of a drinker. I'm not sure, I just don't know whether she really
18 knew what was going on. The one thing she did say after Brad was
19 born, or when he was little, was that Casey seemed to be having to do
20 an awful lot. She said, I don't know what's wrong with Susan. She
21 doesn't get up in the morning. Casey goes in and brings her cup of
22 tea first thing and, you know, and Casey takes care of Brad. I hope

1 Casey doesn't end up resenting Brad because she's having to take care
2 of him so much.

3 Q. How long did your mother stay in Crescent?

4 A. She went down there in November of '93. And she came back
5 to this area in I think the fall of '96, I think.

6 Q. Why did she move back, do you know?

7 A. It wasn't completely clear. She actually came for a visit.
8 And she stayed with us for a couple weeks. And then she said to me,
9 you know what, I don't really want to go back. And I said, you don't
10 want to go back? And she said, no, I don't really want to go back.
11 I like the medical care here better. I think I would be better off
12 here, stay with you for a while and figure out what I'm going to do.
13 I said, okay. So she did. She stayed and after that she lived with
14 us.

15 Q. Did there come a time when your brother and Susan divorced?

16 A. They did.

17 Q. And when was that?

18 A. It must have been in maybe '99. They had come up to visit
19 us, Brian, Susan, Casey and Brad had come up to visit us. I think it
20 was the summer of '98, when my brother Jim had come out from the West
21 Coast. It would have been in '99, I think. It's not like I heard
22 from them much. I mean, I didn't. I think my mother went back down
23 maybe one more time to kind of pack up her stuff. But we really

1 weren't talking a lot. But at some point, obviously, I did hear
2 that.

3 Q. And did your brother remarry?

4 A. He did.

5 Q. And when was that?

6 A. I'm not really sure exactly when he got remarried. It was
7 a fairly short time after the divorce. I don't know exactly when.

8 Q. Did you know the second wife?

9 A. I didn't know her at the time.

10 Q. Did you come to know her?

11 A. I did come to know her a little bit.

12 Q. And how would you describe her?

13 A. She was extremely devoted to her son and she really didn't
14 seem to have much feeling for anyone else except with the possible
15 exception of Brian. She was very cold, cold person.

16 Q. Now how did Susan take the divorce; do you know?

17 A. I think she took it pretty hard.

18 Q. Why do you think that?

19 A. Because I did hear from Susan a couple times when the
20 divorce was going through. She called me with questions about, you
21 know, what her lawyer had told her. And did that sound right. And I
22 would say, well, I really don't do marital law and I don't know
23 anything about Oklahoma law. So, I don't know how helpful I could

1 be, but I would tell her what I knew. I could tell she was upset.
2 She would say, well, it's going to be great. And then she would be
3 very, very depressed.

4 Q. And during that time period who was taking care of say the
5 bills, monthly bills and checks and stuff like that?

6 A. I don't know. I don't know that Susan knew how to write a
7 check so I would assume it was Casey or Brad.

8 Q. Did there come a time when Susan moved back to Wales?

9 A. Yeah. We got a call in the fall of 2001 saying that they
10 were going to move back and they were booking their flight through
11 Washington so that they could, since they had to go through some
12 major city to get a good flight anyway, they thought they would come
13 and visit for a couple days. So they came. She and Brad came. It
14 was actually right around Thanksgiving in 2001.

15 Q. Did you have much contact with Susan and Brad after this
16 point?

17 A. No. I would call occasionally and, you know, as I said, by
18 then I had learned to try to, there is a time difference, and figure
19 out on the weekend when I could call, when it would be, I could catch
20 her what I kind of thought was her good times. And no, I didn't hear
21 from them much.

22 Q. When was the next time you saw Brad?

1 A. I saw Brad when he came to the U.S. for Casey's wedding.
2 That was in December of 2004.

3 Q. And what do you recall from that wedding?

4 A. Well, at first I thought it was odd that he was coming to
5 us rather than to his father. Because they were all going to fly out
6 from Oklahoma City to Las Vegas. We were going to fly from
7 Washington to Vegas. It seemed kind of odd to me that he wasn't
8 going with his father. But I assumed that he didn't want to go with
9 his father. So his father said, Brad is going to come and go with
10 you guys. Is that okay? I said, sure. He'd paid for it. But I
11 thought it was odd that Brian didn't say, oh, yeah, he's going to go
12 with us.

13 Q. Did you notice whether or not Brad and his father spent
14 much time together during the wedding?

15 A. They didn't. Brad -- We got there on the day before the
16 wedding. We met my other brother Michael and his wife and daughter.
17 And we walked around. And at some point late that afternoon, maybe
18 4:00 or so, we met Brian and Susan and her son Dustin at, there was
19 some kind of little, like a food court or something along the strip.
20 And we met them there. And that was the first time Brian had even
21 checked to make sure that Brad had shown up. And he came in and he
22 said to Brad, oh, do you have a sports coat? Brad said, no, I don't.
23 And he said, let me go get you a sports coat. So he went off to get

1 sports coat leaving Susan and Dustin there with the rest of us, and
2 that was very uncomfortable because she clearly was not comfortable,
3 was not happy she had been left there. So they came back. That
4 evening Brad was with us. And then the next day was the wedding in
5 the afternoon. And after the wedding was over Brian said, I'll take
6 Brad for a while and we'll visit. I said, okay. So the rest of us
7 went and had an early dinner. Then we were walking around in Las
8 Vegas, which was difficult, because to be in Vegas on New Year's Eve
9 when you have underage people, there is not much you can do. You
10 can't walk in most places. It's pretty difficult. Anyway we were
11 walking around and my phone rang. It was Brian. He said, I've got
12 Brad. He's ready to come back. This is maybe 8:00. So I said,
13 okay, we'll meet you somewhere. We got Brad. And Brian took off,
14 wherever. And we said to Brad, oh, what did you do for dinner? And
15 he said, oh, I didn't eat. And I said, your father didn't feed you?
16 And he said, no, he didn't feed me. So we eventually got in the car
17 and drove to a McDonald's, because like I said you couldn't really
18 walk in anywhere to get food. We went and got McDonald's for him and
19 he spent New Year's Eve with us. And we all flew back the next day
20 Brian didn't see him again. And so, and then he stayed with us
21 another week or so before he had to get back to finish school.

22 Q. And did Brad ever move back to the United States?

23 A. He did.

1 Q. And when was that?

2 A. It was, I think the late spring of 2005.

3 Q. And where was Brad intending to move?

4 A. Well, he called me and said he was moving back. I said,

5 oh, do you want to come and stay here? He said, no, no, I'm going to

6 live with dad in Oklahoma City. I said, Brad, do you think that's a

7 good idea, because you know how you and your dad don't really get

8 along. He said, no, no, it will be okay. Dad said it is going to be

9 fine, it will work out. I said, okay. So he went to Oklahoma City.

10 Q. And did that work out for Brad?

11 A. No, it did not.

12 Q. When was the next time you heard from him?

13 A. I didn't really hear anything. I didn't know what was

14 going on. And then over the 4th of July weekend of, I guess it would

15 have been 2006, I came home, I think it was on Saturday, and I found

16 a message from Susan, you know, voicemail, saying, Debbie, can you

17 help Brad. He's stranded in Chicago. He needs money. I don't know

18 what to do. Call me. So I called her. And she didn't really know

19 much more than that. But I got his -- He had a cell phone. So I got

20 his cell phone number and I called him. He said, I'm okay, I'm okay.

21 I said, how much money do you have? And he said he had \$25. I said,

22 Brad, \$25 is not enough. Where are you? I'm in my truck, I'm

23 staying in a driveway of some buddy I met. I said, well, I'm going

1 to send you some money. If you decide you need a place to stay, you
2 can come here. I wired him some money. And then the next night he,
3 you know, I got a phone call saying, I'm in Rockville. How do I get
4 to your house?

5 Q. He had driven that night?

6 A. He had driven, yes.

7 Q. Were you surprised to hear from him at that point?

8 A. I was surprised but I was relieved. Because I was really
9 worried about him.

10 Q. How did Brad look when you saw him?

11 A. He looked totally just exhausted, strung out, just like he
12 was -- super hyper, but just -- you could tell he was almost at a
13 breaking point. He got to the house and it was only me and the two
14 boys. Dick and Melisa was away at his folks' house. I said, we were
15 just going to get something to eat. Let's go get something to eat.
16 And at dinner, I think we went to Fridays or somewhere, and he said,
17 I'm going to go get a job tomorrow. And I said, no, I said, here's
18 what you are going to do tomorrow, Brad. What you're going to do
19 tomorrow is, you're going to sleep in. And what you're going to do
20 for the next week is you're going to do nothing. You're going to do
21 absolutely nothing. You're going to sit. You're going to watch TV,
22 you're going to sleep, you are just not going to do anything. I

1 don't want you to look for a job. I don't want you to do anything.

2 I just want you to rest.

3 Q. Why did you say that?

4 A. Because I felt that he was really so close to a breaking
5 point at that point. I didn't know -- I was really worried about
6 him. I wanted him to rest and eat. He just looked like he hadn't
7 eaten. He just looked awful.

8 Q. And how did Brad respond to that?

9 A. Well, at first he was like no, no. And I said, no, I
10 really insist you have to do this. And so he did. So he did. He
11 took it easy for probably a week or two.

12 Q. Did he improve in time?

13 A. He did.

14 Q. And did you try to help him after that point?

15 A. Yeah. Well, then he said, I was working but I came home
16 one evening and he said, I got a job. And I said, oh. He said, I
17 got a job at Starbucks. You know, that's great. That's good. And
18 he seemed very excited about it. And I felt better about it because
19 he was only work part time. He was hoping to go, to maybe to go to
20 the community college in the spring, he wanted to get some money put
21 away.

22 Q. Once he started working at Starbucks, how would you
23 describe that time period for Brad?

1 A. He seemed to be doing pretty well. He liked Starbucks. He
2 was very responsible. I remember the first time he told me one
3 evening, so tomorrow I have to go in, it's my first morning rush
4 hour. I have to be there at 5:30. I thought, oh, brother. So I was
5 thinking about my own kids. So at 5:00 the next morning I got up to
6 make sure that he was up. And, you know, he was already gone, you
7 know, and I realized this is not a kid who needs any looking after.
8 He looks after himself because nobody ever looked after him. So he
9 worked there. I think they liked him. He worked there for a
10 long time. I knew he made friends. I never saw any of the friends.
11 He didn't bring people over, but he would go out with people.

12 Q. How would you describe Brad, as far as kind of a
13 personality development at that point?

14 A. Well, he was still pretty young. I mean he was -- 2006 --
15 he was what, 18, turning 18 and a half or so. He is a hyper person.
16 At that point very hyper person. But he was very alert. He followed
17 things in the world. He liked to talk about what was going on in the
18 world. He liked to talk about current events. He followed things.
19 I think the thing that I noticed the most was, it was hard to get him
20 to sit down to a meal. He always wanted to eat at McDonald's. And
21 he lived on caffeinated beverages. I used to say, Brad, you wouldn't
22 be so hyper if you would just cut back on the caffeine. But he did
23 love his caffeinated beverages.

1 Q. Did Brad ever try to go to college during this time?

2 A. He decided to try to go in the spring semester, so that
3 would have been January to May of 2007. So he went over to
4 Montgomery College. He registered for like a half load because he
5 was going to be working. He was trying to get a loan to pay for the
6 tuition. It wasn't a lot, but he didn't have much money. And Brian
7 had to fill something out. And Brian didn't want to fill it out. He
8 called me, what is this? Why do I have to fill this out? Why are
9 they asking me to fill this out. I said, Brian, everybody, every
10 parent has to fill this out for their kid. This is what you have to
11 do. He was not happy about it. He didn't want to fill it out. So
12 we advanced him the money. And it took all semester for him to get
13 whatever, you know, \$1,000 or whatever it was for the tuition. It
14 finally came through basically at the end of the semester.

15 Q. And how did Brad take to being in college?

16 A. Well, he really liked it. He was very excited about it.
17 But what I noticed was he didn't realize how much work college was.
18 He thought he could still work, you know, probably 25 to 30 hours a
19 week plus, you know, take maybe 10 to 12 hours of classes. And I
20 said to him, you know, in college, you were smart and you did well in
21 school, you probably could get by without doing the reading. You're
22 not going to be able to do that in college. He really didn't listen
23 to me. He was like every other, like my own kids, teenagers, they

1 know everything and you don't know anything. So I think as time went
2 on, I think he started to get behind in school.

3 Q. And eventually did Brad ever come to you and say that he
4 was deciding or had decided to join the Army?

5 A. He came to me. Well, it must have been September of 2007.
6 He called me. I was at the office. He called me and he said, can
7 you and I go out to dinner tonight, just the two of us? I said,
8 sure. Why? He said, I just want to talk to you about something,
9 just the two of us. I said, sure, okay, where do you want to go? He
10 said, I'll meet you up at the -- there is a diner. I'll meet you at
11 the diner. I said, okay. So we went there. And almost right after
12 we sat down he said, I've joined the Army. And I said, you what? He
13 said, I've joined the Army. I said, Brad, I don't think that's a
14 good fit for you, I really don't. I mean I don't think the Army is a
15 good fit for you. You're not -- and he said, I'm already in. I'm
16 going to go in 10 days or whatever it was. So I sort of shut up
17 because, if he was going, there wasn't anything I could do about it.
18 I was not happy about it.

19 Q. And why were you not happy about him going in the Army?

20 A. Because he was a hyper kid. I couldn't really see how he
21 was going to adjust to Army life. And also, he's so small, you know,
22 I just didn't see how he was -- I was afraid he was going to get
23 picked on, you know, harassed because he was small. He actually was,

1 that whole week or whatever it was, 10 days before he went, he was
2 trying to gain weight so he would meet the weight requirement,
3 whatever it was, 109 pounds or something. He was trying to gain
4 weight. Which I was very envious of but he was really, really small.

5 Q. Did Brad tell you why he wanted to join the Army?

6 A. He wanted to join the Army because he wanted the GI Bill.
7 I had spent a year telling him how, as a Maryland resident, he could
8 go to college pretty inexpensively, and he could borrow what he
9 needed and he could get a small part-time job and he could do it.
10 And he just, every time I think I had him almost convinced, he would
11 talk to his father, who would tell him, oh, the only way to do it is
12 the GI Bill. The only way. That's what I did and that's what you've
13 got to do. And he listened to his father.

14 Q. Now, when did Brad leave for basic training?

15 A. I think it was around -- October I think of 2007. I'm not
16 exactly sure, right around then.

17 Q. How did he do in basic training, do you know?

18 A. I think the first few weeks it was okay. I got a call
19 saying he was hurt and they thought he was malingering or something.
20 He was explaining what had happened, he was trying to see a
21 neurologist so that they'll know I'm not, that I'm hurt. And
22 eventually he did get to see a neurologist and he had done something,
23 when he was learning to fire the guns or something, that the recoil

1 or something, it hurt his arm or something. I don't remember what it
2 was. So they said, okay. He said I want to do basic training again.
3 So it was right around the holidays. So he came back here, spent
4 Christmas here. And he was going back. At that point -- my
5 understanding was at that point he could have said, you know what,
6 I'm not going to come back, I'll take whatever discharge, I'm not
7 going okay, I'm not medically okay. But he really wanted to go back.
8 He talked to his father. He talked to my brother Michael. And they
9 said, oh, now, you've got to go back. You have got to go back. And
10 he thought that was the right thing to do. So he went back and did
11 basic training over again.

12 Q. How did Brad do the second time in basic training?

13 A. I think he did okay. I went down for his graduation. His
14 father was there.

15 Q. How did Brad look at that point to you?

16 A. He looked okay. He, again, seemed hyper. He had put on
17 weight. I noticed at Christmastime he had filled out. He seemed to
18 be in better physical condition. He seemed, you know, seemed excited
19 about, you know, that he was getting to get posted to his new
20 training facility.

21 Q. Did you meet any of Brad's friends from basic?

22 A. No.

23 Q. Did he have any friends in basic?

1 A. I don't know. I don't know. He didn't mention anybody.
2 Nobody really came up to him and said, oh, Brad, you know, anything.
3 I mean I was only there for a few hours, but I didn't see anybody who
4 really seemed to be a friend.

5 Q. What about at Advanced Individual Training, AIT. Did he
6 talk to you about that?

7 A. I think I may have heard from him once when he was there.
8 I didn't even know when he was graduating. I probably would have
9 gone to the graduation, but I didn't even know when it was.

10 Q. And then after Brad went to Fort Drum, did you have contact
11 with him when he went there?

12 A. Yes. He would call. He would come down sometimes. It's a
13 long drive but not impossible. He would get a ride with somebody and
14 come down for the weekend. He would come down and stay at the house
15 and go out and see friends. He seemed to be, you know, doing okay.

16 Q. And how did you feel about Brad being at Fort Drum?

17 A. He seemed to be fine. He seemed to be adjusting okay. So
18 I didn't have any particular qualms about it. I knew that they were
19 training for Afghanistan, I think and then they changed it to train
20 for Iraq. But I didn't have any particular concerns.

21 Q. Did you know whether or not Brad was seeing anyone, dating
22 anyone during this time period?

23 A. No, I didn't know what was going on with Brad.

1 Q. And when he mentioned that he was going to deploy to Iraq,
2 what did you think about that?

3 A. Obviously I was worried about it. He would explain to me
4 how this was going to be very safe where he was going to be. And
5 that you weren't really a Soldier, if you didn't deploy, if you
6 didn't go downrange. You had to do that to be a Soldier. And I
7 guess there is some kind of a bar or something you get, some patch, I
8 don't know what, you get something if you had gone, and you could
9 tell at a glance if somebody had gone. He really wanted to have that
10 to show that he was a Soldier.

11 Q. Did he seem nervous about deploying?

12 A. He seemed more excited about deploying.

13 Q. During the deployment did you hear much from him?

14 A. I think he may have called once or twice. I kind of
15 followed him on Facebook a little bit. He called sometime before
16 Christmastime because, and I asked if there was something he wanted.
17 He wanted some stuff that would remind him of home, of Washington and
18 Maryland. So I went out to try to find things, which is not that
19 easy to do unless you go to the airport or downtown to a souvenir
20 store. It's not as easy as you would think. So I made up a package
21 of stuff and sent that off to him. I think the next thing I heard
22 from him was that he was coming home on leave.

1 Q. And how did Brad appear to you when he came back for his
2 mid-tour leave?

3 A. He seemed a little bit subdued, but he was exhausted. So
4 he slept most I think of that first 24 hours he was home. It was
5 hard for me to tell then. Really right after that I think he left
6 for Boston. He said, I'm going to go to Boston to meet some friends.
7 I said, oh, okay.

8 Q. Did you talk to him much during this time?

9 A. He went up to Boston. He came back. He was seeing
10 friends. He wasn't around that much. Again, I had never really --
11 he had been self-sufficient for so long. I didn't want to pry into
12 his life. If he volunteered something, I was happy to hear it. But
13 it was more like it was with my own children where they don't tell
14 you a lot about what's going on in their lives unless they want. And
15 if you ask them how everything is, they say, everything is fine, it's
16 all fine. Everything okay? Yep.

17 Q. Did Brad ever share with you that he was gay?

18 A. No. Well, at least not then. At some point he did. At
19 some point I kind of figured it out. But he may have told me at some
20 point later but this was long after he was in the Army.

21 Q. Now when did you find out that Brad had been arrested?

22 A. I came back -- I was at the office. I came back from
23 lunch. I remember the date because it was my daughter's birthday. I

1 picked up a voicemail from someone who said he was a reporter at
2 Wired. And he just said, do you know that your nephew has been
3 arrested in Iraq for, and I remember what he said and I can't
4 remember what his name was. And so he left me a phone number. And
5 so the first thing I do, I Googled to see if, in fact, he was who he
6 said he was, there was such a person at Wired, and the phone number
7 matched. It did. So I called him back. And he just said there was
8 a video and Brad had been arrested and charged with releasing this
9 video.

10 Q. When you heard about that, what did you think?

11 A. I was just totally shocked. Just totally and completely
12 shocked.

13 Q. When was the first time that you heard from Brad after
14 that?

15 A. It must have been -- It was sometime the next week.
16 Because I think I heard from Captain Bouchard before I heard from
17 Brad.

18 Q. And Captain Bouchard was?

19 A. He was his -- I guess he was his counsel there in Iraq or
20 maybe Kuwait at that point. He called me to make sure I knew and to
21 just, you know, see if I had any questions. I asked him some
22 questions. What I remember about this, especially that first week or
23 so, is just being kind of in a state of complete, sort of stunned.

1 My son Christopher and I had made plans to go up to see -- to
2 Philadelphia to see the Cleopatra exhibition that weekend. I
3 remember we were just up there at the same hotel this weekend and it
4 just brought back all these memories of being up there. And I felt
5 almost like it was a dream, that this was all going to go away, you
6 know, because I just couldn't believe it.

7 Q. When was the next time you actually laid eyes on Brad and
8 saw him?

9 A. It would have been -- It was late August or early September
10 at Quantico.

11 Q. And how did he look when you saw him at Quantico?

12 A. He looked pale, thin, just, you know, didn't look good.

13 Q. And how difficult was this time for you when you saw him at
14 Quantico?

15 A. It was very difficult. I mean obviously everything we were
16 saying was monitored and all that. I just said to him, are you okay?
17 Of course, he said, I'm fine. I'm fine. Everything going all right
18 here? I'm fine. I'm fine. But especially the very first was
19 especially difficult because apparently there was going to be some
20 demonstration or something so the security was extremely heavy. A
21 friend had come down with me and they wouldn't even let her wait or
22 anything. She had to leave the base and come back and pick me up. I

1 couldn't call her because I couldn't have my phone. After that it
2 was never as severe. That first time it was really, really tough.

3 Q. Did Brad ever complain to you about his treatment?

4 A. No.

5 Q. And from what you saw did you need to cheer Brad up during
6 this time?

7 A. Well, I would try. We would talk about, you know, maybe we
8 would talk about what was going on, like family stuff or kind world
9 events. And by the time I would get down there and go through
10 security and we would have maybe an hour to an hour and 20 minutes or
11 so. And so mostly it was just sort of books. I would bring -- maybe
12 I would bring Chris down or Rob down and they would talk about, you
13 know, things they are all interested in. They debate a lot more than
14 I do. So they would debate on issues of the day. That kind of
15 thing.

16 Q. Do you ever recall telling me that it seemed like Brad was
17 trying to keep you positive when you came to visit him?

18 A. Yes. Yes, I do remember that, because I did. Because I
19 would -- By this point I was starting to hear things about the
20 treatment at Quantico. I would say, are you sure everything is okay?
21 I'm okay. I'm okay. Everything is fine, you know. Everything is
22 fine.

1 Q. Now, have you noticed a change in Brad over the last 3
2 years?

3 A. Oh, yes.

4 Q. How so?

5 A. He's a lot calmer. He seems much more like a grownup. He
6 listens a lot more than he used to. He seems to be more, sort of
7 appreciate more what he has. And I think he understands now that
8 there are people who love him and care about him. I'm not sure he
9 was really convinced of that before. I think he is believing that
10 now. And I think that's a big change. I think he has found out that
11 there are people that if he needs something and he asks for it, we
12 would give it; we will see that he gets it, which I think was a very
13 big change for him. He just seems a lot more mature.

14 Q. What's your hope for Brad's life now?

15 A. I hope that at some time in the future he can go out and
16 have a real life again and really have a good life. Because I feel
17 like he just had such terrible start to his life and struggled to
18 overcome, you know, what was going on. He kind of got to a certain
19 point and then obviously things just got too much for him. So, I'm
20 hoping at some point he can go out and have a good life and get his
21 education and do the things that he really wants to do be able to
22 contribute because I think he's got a lot to contribute.

1 Q. Do you have any requests of Colonel Lind, as she decides
2 what would be an appropriate sentence in this case?

3 A. I just hope that she takes into account that he had a very
4 hard start to his life. He worked really -- He worked very hard.
5 He's a good person. He cares about people. And I think he thought
6 he was doing the right thing at a time when he really was not, I
7 think, thinking clearly at all.

8 CDC[MR. COOMBS]: Thank you. No further questions.

9 MJ: Cross-examination?

10 ATC[CPT OVERGAARD]: No, ma'am.

11 MJ: Temporary or permanent excusal?

12 CDC[MR. COOMBS]: Permanent, ma'am.

13 **[The witness was permanently excused and remained in the courtroom.]**

14 CDC[MR. COOMBS]: Your Honor, the defense rests.

15 MJ: All right. At this time why don't we take a brief recess.
16 And I'd like the government and the defense to confer. I know the
17 government had advised me earlier that they want some time to think
18 about what, if any, rebuttal case that they were going to put on and
19 when you want to request to do that. So how long of a recess do we
20 need to come see me and let me know?

21 ATC[CPT OVERGAARD]: Ten minutes, Your Honor.

22 MJ: Why don't we go ahead and reconvene at 5 minutes after 5:00
23 or 1700. Court is in recess.

1 [The court-martial recessed at 1654, 14 August 2013.]

2 [The court-martial was called to order at 1707, 14 August 2013.]

3 MJ: Court is called to order. Let the record reflect all
4 parties present when the court last recessed are again present in
5 court.

6 Counsel and I met briefly in an R.C.M. 802 conference.
7 Once again, that's a conference where I discuss logistics and
8 scheduling issues and other issues that might arise in the cases.
9 The parties have conferred and we will go as follows:

10 The next session will be Friday at 1300 or 1:00. The
11 government is going to at the appropriate government time tomorrow to
12 figure out what, if any, rebuttal case they are going to present.
13 They are going to have that information to the Court and to the
14 defense at 6 o'clock or 1800 tomorrow evening. Friday morning the
15 government will produce any witnesses necessary for the defense to
16 interview and prepare which is the reason we are not starting until
17 1300 and at this point we don't know what the government is going to
18 have for rebuttal so I don't have any further information beyond that
19 on how much we are going to do on Friday at 1300; but that will be
20 the next time we reconvene. Would either party like to expand on
21 what occurred during the R.C.M. 802 conference?

22 CDC[MR. COOMBS]: No, Your Honor.

23 ATC[CPT MORROW]: No, Your Honor.

1 MJ: Is there anything else we need to address before we recess
2 Court until Friday at 1300?

3 CDC[MR. COOMBS]: No, Your Honor.

4 ATC[CPT MORROW]: No, Your Honor.

5 MJ: Court is in recess.

6 [The court-martial recessed at 1708, 14 August 2013.]

7 [END OF PAGE]

1 [The court-martial was called to order at 1300, 16 August 2013.]
2 MJ: Court is called to order.
3 CPT Morrow, please account for the parties.
4 ATC[CPT MORROW]: Yes, Your Honor. All parties present when
5 the court last recessed are again present with the exception of CPT
6 von Elten, who is absent.
7 MJ: All right, as for the schedule ----
8 [CPT Morrow signaled to the military judge.]
9 MJ: Yes?
10 ATC[CPT MORROW]: I'll just account for the 15 media at the
11 Media Operations Center, Your Honor, one stenographer, one media in
12 the courtroom panel box, 16 spectators in the courtroom, and the
13 overflow trailer is currently not in use.
14 MJ: All right, thank you. As for the schedule, the government
15 gave notice of its proposed rebuttal last night at 6 o'clock, or
16 1800.
17 Has that notice been marked as an Appellate Exhibit?
18 ATC[CPT MORROW]: Yes, Your Honor. That's Appellate Exhibit
19 659.
20 MJ: And following that, Defense, you also replied to the court
21 via email that, I guess it was an issue with the defense forensics
22 expert being overseas?
23 ADC[CPT TOOMAN]: That is correct, Your Honor.

1 MJ: Can you tell us the defense's position with respect to the
2 government's proposed rebuttal?

3 ADC[CPT TOOMAN]: Yes, Your Honor. Last night we interviewed
4 the government's proposed witness, Agent Shaver. We looked at the
5 information that he was going to testify to. Based upon what we saw,
6 we didn't see the need for our forensic expert to be made available,
7 and ultimately we agreed to do a stipulation of expected testimony
8 for Agent Shaver.

9 MJ: I have a copy of that marked here as Prosecution Exhibit
10 209 for identification.

11 PFC Manning, do you have a copy of Prosecution Exhibit 209
12 for identification?

13 ACC: Yes, Your Honor.

14 MJ: Looking on Page 2 there, is that your signature about a
15 third of the way down ----

16 ACC: Yes, Your Honor.

17 MJ: ---- on the right? Okay. Did you read the stipulation of
18 expected testimony thoroughly before you signed it?

19 ACC: Yes, Your Honor.

20 MJ: We've gone over these before. This one is a little bit
21 different than some of the other ones because it references
22 particular exhibits that the government intends to, as I understand,

1 to introduce through this stipulation. Did you review the exhibits
2 this stipulation of expected testimony refers to?

3 ACC: Yes, Your Honor.

4 MJ: Do you understand the contents of this stipulation?

5 ACC: I do, ma'am.

6 MJ: Do you agree with the contents of the stipulation?

7 ACC: Yes, ma'am.

8 MJ: Before signing the stipulation, did your defense team
9 explain the stipulation to you?

10 ACC: Yes, ma'am.

11 MJ: Do you understand you have an absolute right to refuse to
12 stipulate to the contents of Prosecution Exhibit 209 for
13 Identification?

14 ACC: Yes, ma'am.

15 MJ: And you understand also that you enter into the stipulation
16 only if you believe it's in your best interests to do that?

17 ACC: Yes, Your Honor.

18 MJ: And once again, the stipulation of expected testimony is a
19 stipulation where both sides, and counsel for both sides and you
20 agree that if Special Agent Shaver were here, he would testify
21 substantially as what is in Prosecution Exhibit 209 for
22 identification. The stipulation does not admit the truth of the
23 person's testimony. The stipulation can be contradicted, attacked,

1 or explained in the same way as if the person was testifying in
2 person under oath.

3 Do you understand that?

4 ACC: Yes, ma'am.

5 MJ: And knowing what I have told you and what your defense
6 counsel told you earlier about the stipulation, do you still desire
7 to enter into it?

8 ACC: Yes, Your Honor.

9 MJ: Do both counsel concur in the contents of Prosecution
10 Exhibit 209 for Identification?

11 ATC[CPT MORROW]: Yes, ma'am.

12 ADC[CPT TOOMAN]: Yes, ma'am.

13 MJ: Prosecution Exhibit 209 for identification is admitted as
14 Prosecution Exhibit 209.

15 Is there anything else we need to address before we begin
16 the government's rebuttal case? I am going to discuss the R.C.M. 802
17 conference we just had and the scheduling calendar that we have to
18 proceed. Anything else other than that we need to address?

19 ATC[CPT MORROW]: No, Your Honor.

20 ADC[CPT TOOMAN]: No, Your Honor.

21 MJ: Counsel and I met briefly in an R.C.M. 802 conference
22 before coming on into court today to discuss just a number of
23 logistics issues. The trial schedule will proceed as follows: today,

1 we're going to have the government's rebuttal case; the court's going
2 to be prepared to enter its special findings; on Monday, we'll recess
3 the court today, and then sentencing argument will begin Monday at
4 1300.

5 ATC[CPT MORROW]: Yes, Your Honor.

6 ADC[CPT TOOMAN]: Yes, Your Honor.

7 MJ: And Monday morning will not be an open session of the
8 court. It will be--I need to go through with the court reporter and
9 the paralegals the exhibits that we have just to make sure that
10 they're all there and to do some logistics and sealing orders and
11 that kind of thing. So Monday morning we are going to be spending
12 doing that, we'll have our next open session Monday afternoon at
13 1300. The court intends to, at that point, go over the appellate
14 rights with PFC Manning, have sentencing arguments, and then go
15 immediately into deliberations. So the government will put out a
16 notice of, "be prepared to be here at a certain time," on perhaps
17 Tuesday or Wednesday depending on how long it takes the court to
18 deliberate to announce the sentencing case.

19 Does either side desire any further explanations of what
20 occurred during the R.C.M. 802 conference?

21 ATC[CPT MORROW]: No, Your Honor.

22 ADC[CPT TOOMAN]: No, Your Honor.

23 MJ: Is the government ready to proceed with the rebuttal case?

1 ATC [CPT OVERGAARD]: First, ma'am, the government moves to
2 admit what have been marked as Prosecution Exhibits 205, 206, 207,
3 and 208 for identification into evidence as Prosecution Exhibit 205,
4 206, 207, and 208.

5 ADC[CPT TOOMAN]: No objection, ma'am.

6 MJ: May I see them, please?

7 [The assistant trial counsel, CPT Overgaard, handed PEs 205-208 for
8 ID to the military judge.]

9 MJ: I have before me Prosecution Exhibits 205, 206, 207, and
10 208 for identification, and defense has no objection to any of them,
11 therefore, they are all admitted.

12 ATC [CPT OVERGAARD]: Permission to publish Prosecution
13 Exhibit 209, ma'am, the stipulation of expected testimony of Special
14 Agent Shaver?

15 MJ: Proceed.

16 ATC [CPT OVERGAARD]: The Stipulation of Expected Testimony
17 of Special Agent David Shaver, dated 16 August 2013; it is hereby
18 agreed by the Accused, Defense Counsel, and Trial Counsel that if
19 Special Agent David Shaver were present to testify during the
20 presentencing phase of this court-martial, he would testify
21 substantially as follows:

22 Prosecution Exhibit, PE 205, is an email that I pulled from
23 the allocated space in the accused's personal Macintosh computer.

1 The personal Macintosh was previously admitted as PE 11. The email
2 was located in the "Sent" folder of the Thunderbird Email Client.
3 Thunderbird Email Client is the program which hosts emails from the
4 accused's GMmail and Earthlink email accounts. The email is
5 entitled, "Happy Thanksgiving Belated," and that the accused sent the
6 email to Mr. Tyler Watkins on 28 November 2009;

7 PE 206 is a summary I created of numerous emails that I
8 found in the allocated space of the accused's personal Macintosh
9 computer. To locate the emails, I searched for "Danny Clark" or
10 "Daniel Clark" in the accused's Thunderbird email client, both in the
11 "Sent" folder and the "Inbox" folder. The filtered results showed
12 all the emails between the accused and Mr. Clark, and showed
13 information in the following fields: To, From, CC, Subject, and
14 Received. I then took a screenshot of the search results, which is
15 what you see in PE 206. I discovered that there were 27 messages in
16 the 23 August 2009 to 20 May 2010 timeframe. In the "To" and "From"
17 lines, the email recipients are typically listed by name only. The
18 names "Danny Clark" and "Daniel Clark" correspond to the email
19 addresses: dclark@mit.edu, dclark@pobox.com, and
20 danny@opensysadmin.com. "Bradley.manning@earthlink.net",
21 "bradley.manning", "bradmanning", and "bradley", are all emails or
22 names that correspond to emails of the accused;

1 PE 207 is a screenshot of a configuration file showing
2 encryption contents located in the allocated space of the personal
3 Macintosh computer. Specifically, the file was located at the
4 following path: macintoshhd\users\bmannings\library\application
5 support\adm 2.0\default\otr.fingerprints. Adium is a chat client
6 that the accused used on his personal Macintosh computer. Off the
7 record, or OTR, is an add-on to that chat client which is used to
8 encrypt chat communications while they are in transit. OTR requires
9 both contacts or parties to share their encryption keys to enable
10 chat communications. To complete this process, one party requests
11 the initiation of encrypted conversation, and the receiving party
12 accepts the invitation. The parties then exchange unique encryption
13 keys which serve as decoders to enable each computer receiving a
14 message to translate the encrypted message into readable text. The
15 screenshot reveals the individuals with whom the accused has shared
16 encryption keys, which includes "danny@opensysadmin.com". As
17 previously stated, the email address "danny@opensysadmin.com"
18 corresponds to Mr. Danny Clark;

19 PE 208 is a portion of a chat that I located and carved out
20 of the unallocated space on the accused's personal Macintosh
21 computer. I searched the unallocated space for deleted chats between
22 Mr. Clark's email address "danny@opensysadmin.com" and the accused.
23 I then formatted the results so the information was easier to read.

1 The portion of the chat that I located occurred on 18 March 2010, and
2 was between bradley.e.manning@gmail.com, alias Bradley Manning; and
3 danny@opensysadmin.com, alias Danny Clark.

4 [End of PE 209 reading.]

5 ATC [CPT Overgaard]: PE 206 was originally, as explained in
6 the stipulation of expected testimony a summary, but upon defense
7 request, the government appended all emails that were the basis for
8 that summary to PE 206.

9 MJ: Am I understanding you correctly that Page 1 is a summary
10 and then the other--the remaining pages are the actual emails
11 themselves?

12 ATC[CPT OVERGAARD]: Yes, ma'am.

13 MJ: Is that correct?

14 ADC[CPT TOOMAN]: Yes, ma'am.

15 ATC [CPT OVERGAARD]: The United States rests, Your Honor.

16 MJ: All right. Does that include the taking of evidence?

17 ADC[CPT TOOMAN]: Yes, Your Honor.

18 ATC [CPT OVERGAARD]: Yes, Your Honor.

19 MJ: Is there anything else that we need to address before I
20 issue my special findings, which I am going to need about a 10-minute
21 recess before I do that?

22 ADC[CPT TOOMAN]: No, Your Honor.

23 ATC [CPT OVERGAARD]: No, Your Honor.

1 MJ: All right. My plan is to announce the special findings on
2 the record. The rule regarding special findings allows the court to
3 either announce it or to append the special findings in writing to
4 the record before authentication.

5 Does either side have any objections to my announcing the
6 special findings?

7 CDC[MR. COOMBS]: Your Honor, no objection to that, although
8 the defense would request that you go ahead and just append your
9 special findings to the record and make them available for the public
10 today.

11 MJ: Does the government have any objection to that proceeding?

12 ATC[CPT MORROW]: No objection, Your Honor. And we will
13 provide 10 copies to the public today, and 10 copies to the Media
14 Operations Center.

15 MJ: Why don't we do that; let's take a quick 10-minute recess,
16 I will come back out on the record, I will have the special findings
17 marked as the next appellate exhibit in line, and the government can
18 take care of making media copies available.

19 ATC[CPT MORROW]: Yes, Your Honor.

20 MJ: Court is in recess until 25 minutes after 1300.

21 **[The court-martial recessed at 1314, 16 August 2013.]**

22 **[The court-martial was called to order at 1330, 16 August 2013.]**

23 MJ: Court is called to order.

1 Let the record reflect all parties present when the court
2 last recessed are again present in court.

3 The court is prepared to issue its special findings. The
4 parties have indicated they don't want me to read it, rather, they
5 would rather have copies made for the public, and the court has
6 agreed to that.

7 Is there anything else we need to address before we recess
8 the court until 1300 on Monday morning--or Monday afternoon?

9 CDC[MR. COOMBS]: No, Your Honor.

10 ATC[CPT MORROW]: No, Your Honor.

11 MJ: Special findings are Appellate Exhibit DCXXV [625], which I
12 am handing to the court reporter. Copies will be made in due course.

13 Court is in recess until 1300, 1 o'clock, Monday afternoon.

14 **[The court-martial recessed at 1331, 16 August 2013.]**

15 **[END OF PAGE]**

1 [The court-martial was called to order at 1307, 19 August 2013.]

2 MJ: Court is called to order.

3 MAJ Fein, please account for the parties.

4 TC[MAJ FEIN]: Yes, ma'am. All parties present when the court
5 last recessed are again present, with the following changes: I am
6 present on the record.

7 MJ: I have been advised that there are several appellate
8 exhibits that have been added to the record, is that correct?

9 TC[MAJ FEIN]: That is correct, ma'am. Also, as of 1253 of this
10 afternoon, there are 18 members of the media at the Media Operations
11 Center, 1 stenographer at the Media Operations Center, 1 member of
12 the media in the panel box, 21 spectators in the courtroom, and no
13 spectators in the overflow trailer, although it will remain available
14 today.

15 Ma'am, Appellate Exhibit 660 is a CD containing panel
16 member documents. The documents it contains are: the original
17 questionnaires; the supplemental questionnaires; and the publicity
18 order acknowledgments for two different panels, the panel that was
19 selected in 2012, and the panel that was selected in 2013. And that
20 is Appellate Exhibit 660.

21 Your Honor, Appellate Exhibit 661 A through E, and I will
22 go through each one, are emails between the parties of the court, and
23 they're different types of emails. The first is 661 A, that is,

1 emails from both parties to the court (UNCLASSIFIED), and it is as of
2 18 August 2013. Each of these are separate CDs or DVDs. Appellate
3 Exhibit 661 B is government *ex parte* emails to the court as of 18
4 August 2013. Appellate Exhibit 661 C is defense *ex parte* emails to
5 the court as of 18 August 2013. Appellate Exhibit 661 D is a CD
6 containing emails from the parties to the court, and these are
7 classified emails, Secret level, as of 18 August 2013. And Appellate
8 Exhibit 661 E are government classified *ex parte* emails to the court
9 as of 18 August 2013.

10 Also, Your Honor, Appellate Exhibit 662 is the joint final
11 judicial notice accounting dated 16 August 2013.

12 And Appellate Exhibit 663 is the government's notification
13 of the review of M.R.E. 505(g)(2) and 505(i), redactions from all the
14 previous filings. And in that filing, Your Honor, the United States
15 lists all the different filings it has had in this case that two
16 different trial counsel reviewed in each of those filings and the
17 underlying information to validate and certify that none of that
18 information was elicited from any of the government's witnesses or
19 from any witness by the government, any portion of the trial.

20 MJ: Thank you. Defense, any issues with the final judicial
21 notice document?

22 CDC[MR. COOMBS]: No, Your Honor.

1 MJ: I believe that you advised the court -- the defense had
2 advised the court that you want the court to consider only those
3 defense portions of the judicial notice as we went through along the
4 way that are actually introduced into evidence. Is that correct?

5 CDC[MR. COOMBS]: That is correct, Your Honor.

6 MJ: Before we begin today, I do want to just go over briefly a
7 little change in the court's proposed way ahead. Today we will be
8 having sentencing argument by counsel, followed by PFC Manning and I
9 having a discussion on his post-trial and appellate rights. My
10 initial plan as I announced at the last session was that I would go
11 into deliberations immediately after this session. I have been going
12 over with the paralegals and court reporters all of the exhibits that
13 have been introduced into this case as well as all of their
14 enclosures which I need to finalize to determine what should be under
15 seal, and for what reasons, and that process is taking a little
16 longer than I anticipated. So the way ahead for the court is: I
17 intend to go through with today's session, at that point I will
18 recess the court, and finish the administrative matters that I need
19 to address with the court reporter and all of these exhibits and take
20 as long as that takes, and we will reconvene tomorrow and I will
21 close the court for deliberations at 0900 tomorrow for as long as I
22 need to deliberate. And once again, the court will ensure there is
23 enough notice once I reach a decision that the public and whoever

1 wants to be here for that decision will have enough notice in time to
2 be here.

3 Does either side have any objection to the court's way
4 ahead?

5 CDC[MR. COOMBS]: No, Your Honor.

6 TC[MAJ FEIN]: No, ma'am.

7 MJ: Is there anything else we need to address before we begin
8 sentencing argument?

9 CDC[MR. COOMBS]: No, Your Honor.

10 TC[MAJ FEIN]: No, ma'am.

11 MJ: Proceed.

12 ATC[CPT MORROW]: Yes, ma'am.

13 Your Honor, this case started three months ago with the
14 opening statements of the parties. The United States told you that
15 we're here today because of PFC Manning's arrogance and access to the
16 SIPRNET, and the government trusted that he would protect classified
17 information. Your Honor, if there is anything that you take away
18 from sentencing deliberations, it's this: there may not be a Soldier
19 in the history of the United States Army who displayed such an
20 extreme disregard for the judgment of the officers appointed above
21 him, and the orders of the President of the United States. He
22 believed that he, among all the users of classified information
23 systems in the United States government, was knowledgeable and

1 intelligent enough to decide what information deserved protection,
2 and what information didn't. In the process, he created a grave risk
3 of harm to national security through the volume of information he
4 disclosed. He disrupted ongoing military and diplomatic missions,
5 and he endangered the well-being of innocent civilians and soldiers.

6 The United States asks you to sentence PFC Manning to
7 forfeit all pay and allowances, to pay the United States a fine of
8 one hundred thousand dollars, to be reduced to Private E1, to be
9 confined for no less than 60 years, and to be dishonorably discharged
10 from the service. At least 60 years is justified in this case, Your
11 Honor. The United States does not make this request lightly. PFC
12 Manning is young, and he pled guilty to some lesser included
13 offenses. But considering those factors, and the defense case in
14 extenuation and mitigation, PFC Manning's actions, PFC Manning's
15 intent over the course of his combat deployment to Iraq, his repeated
16 abuse of his access to the SIPRNET while on duty, all those factors
17 are egregious enough to warrant 60 years. Agreements and oaths mean
18 something, Your Honor. He's been convicted of serious crimes, he
19 betrayed the United States, and for that betrayal he deserves to
20 spend the majority of his remaining life in confinement.

21 Your Honor, the United States would like to start by
22 talking about its own sentencing case. You have heard from 14
23 witnesses: senior officers in the military, senior officials from

1 the Department of State, and senior Department of Defense civilians.
2 You didn't hear any personal animosity for the accused, they didn't
3 know him personally. They offered their observations, they offered
4 their opinions, they stayed within their lanes of expertise. They
5 weren't hyperbolic; they were experts and senior officials with
6 firsthand knowledge of the steps the government took to mitigate
7 harm. They described how the U.S. moved Heaven and Earth in some
8 cases. They explained it took never before seen resources to
9 mitigate the impact of the disclosures. They personally observed
10 damage, and they provided the Court with concrete examples of the
11 impact directly resulting from and relating to PFC Manning's crimes.
12 As you deliberate in sentencing, keep in mind between the stark
13 difference between the evidence provided to you by the government of
14 the United States and the evidence provided to you by the defense.
15 This is a case about PFC Manning, Your Honor. The Army is not on
16 trial, the command is not on trial, Mr. Adkins is not on trial,
17 Behavioral Health is not on trial. None of those entities or
18 individuals are responsible for what PFC Manning did. I'll go back
19 to this later, Your Honor, but think about the timeline of evidence.
20 Think about how PFC Manning started using the WikiLeaks Most Wanted
21 List in late November 2009. PFC Manning is solely responsible for
22 his crimes. PFC Manning is solely responsible for the impact. He
23 was a determined insider, he knowingly took advantage and exploited

1 an imperfect system with vulnerabilities. Every day at his SIPRNET
2 computer was another day to stick his finger in the eye of the
3 classification system.

4 The government's sentencing case began with Brigadier
5 General (Ret.) Carr who was directed by the Secretary of Defense to
6 stand up the Information Review Task Force. That task force operated
7 for over 10 months and reviewed every document compromised by PFC
8 Manning. Through its review of the CIDNE-A and CIDNE-I SIGACTs the
9 task force identified hundreds of individuals at risk of retaliation
10 for cooperating with US forces. He talked about the moral and
11 ethical duty to warn those individuals and the impact the failures to
12 warn could have on our ability to interact with the local populace.
13 And he also talked about how the disclosures impacted our
14 relationships with allies.

15 In that same day, Mr. Kirchhofer. Mr. Kirchhofer was a
16 member of the Senior Executive Service who was assigned to be the
17 IRTF Deputy. He talked about the amount of resources devoted to the
18 IRTF's operations: 300 personnel over its duration from agencies and
19 departments across the government, he estimated 125 personnel at any
20 given time running 24/7 for the first two months because of the
21 volume of the material that needed to be reviewed. He had a
22 background in budgets, and he testified that the IRTF cost over six
23 million dollars to operate. Both General Carr and Mr. Kirchhofer

1 testified that the IRTF was absolutely necessary to mitigate whatever
2 potential damage the government could do within reason not only for
3 ourselves, but for our allies. And both explained how hundreds of
4 U.S. government employees were pulled from their day jobs in the
5 military intelligence and diplomatic communities to ensure that
6 whatever harm that could be mitigated was mitigated.

7 The first State Department witness, Your Honor, was
8 Principal Deputy Assistant Secretary Dibble from the Bureau of Near-
9 East Asia Affairs, and she described her horror and disbelief when
10 she heard the purported diplomatic communications were available to
11 see. She described our trust and credibility with foreign
12 interlocutors were key elements of our ability to conduct diplomacy
13 and further US national interests. And in closed session, she
14 discussed the impact of the mission of the Department of State in the
15 Near East and specifically in regard to Iran, Lebanon, and Libya.

16 And you also heard from PDAS Feeley from the Bureau of
17 Western Hemisphere Affairs. He echoed the same sentiment on the
18 value of trust and credibility with respect to conducting diplomacy.
19 And he also testified that he personally observed impact to our
20 relations with Latin America as a result of the disclosures. He
21 described in detail why our relations with countries in Latin America
22 are critical to US national security interests. And in closed

1 session, he offered his opinions and he identified the impact he
2 observed in great detail.

3 Ms. Swart testified that Net-Centric Diplomacy was created
4 in order to provide other organizations and specifically the
5 Department of Defense the cable traffic that would be valuable to
6 their work. And she relayed that information sharing within the US
7 government was negatively impacted by the loss of NCD after it was
8 pulled from the SIPRNET.

9 And you heard from Ambassador Kozak who is the head of the
10 Persons at Risk Working Group with the Department of State charged
11 with identifying those persons whose names or identities were
12 compromised by the release of purported cables. He spent his life
13 working on issues related to human rights and democracy, and he
14 described the major effort to review, identify, notify, and assist
15 those impacted individuals. And in this case, we aren't talking
16 about heads of state or foreign ministers. These were people at risk
17 of injury, incarceration, or death as a result of the release of
18 their names. Democracy and human rights activists who in some cases
19 were not living in a location where it was possible for the
20 Department of State to notify them without increasing the risk. And
21 Ambassador Kozak testified that in decades of working for the
22 Department of State he had never seen an effort to reach out to
23 contacts because of something the US government did.

1 The last State Department witness, Your Honor, was
2 Undersecretary of State for Management Kennedy. And he testified
3 that the anticipated release of cables and then the release of
4 purported cables were treated as a crisis by the department because
5 of the scope of the impact. In 40+ years, he had never seen a crisis
6 that encompassed so many personnel. Every geographic bureau was
7 affected as well as many of the functional bureaus. Thousands of
8 employees across the Department reviewed cables to determine whether
9 it was information that would impact operations or could otherwise be
10 mitigated. And this included ambassadors and chiefs of mission.
11 Undersecretary Kennedy testified the diplomatic relations were
12 directly impacted following the releases. There was an observable
13 chilling effect in our relations with foreign interlocutors. And
14 what Undersecretary Kennedy really drove home was that the impact was
15 not limited to areas identified by PDAS Feeley and PDAS Dibble. PFC
16 Manning's crimes affected relations everywhere.

17 You heard from General Nagata who was the Deputy Chief of
18 Operations for the Office of the Defense Representative to Pakistan
19 from 2009 to 2011. And during direct, he described in great detail
20 how our relationship with Pakistan was important to US national
21 security. And there may not be an individual in government who is
22 more knowledgeable about this subject than he is. In fact, he
23 described how he extended his assignment by a year because he

1 believed the mission was so important. And he talked about the
2 upward trajectory of this relationship and the relationship with the
3 Pakistani military before the WikiLeaks releases. And in an open
4 session, he relayed that he personally observed impact to the mission
5 of the ODRP as a result of the disclosure of the purported cables.
6 And in closed session, he identified the impact in several distinct
7 areas.

8 In that same day, you heard from Colonel Chestnutt who is
9 the Senior Defense Attaché in Pakistan in November 2010. And he
10 testified that almost immediately after settling in, purported State
11 Department cables were released into the Pakistani news and the US
12 news. Colonel Chestnutt testified to the impact of the releases on
13 defense attaché operations in Pakistan. These were personal
14 observations relaying the impact that he specifically described in
15 closed session. This was separate from the impact described by
16 General Nagata.

17 You heard from Mr. McCarl who testified as an expert in the
18 use of adversaries' use of IEDs. And he described that his
19 organization, JIEDDO, spent almost 900 man hours reviewing a subset
20 of the compromised SIGACTs to determine the operational security loss
21 to the government as a result of the releases. In closed session, he
22 described some of the findings by JIEDDO and offered his opinion on

1 how the adversary can use the released cables, or released
2 information.

3 Mr. Pearson was an Arabic linguist and a computer expert
4 who has worked in a variety of positions throughout his career, and
5 he worked at JIEDDO during the timeframe of the disclosures. And as
6 you heard in testimony, JIEDDO was divided into three missions:
7 attacking the network, defeat the device, and train the force. And
8 he worked on attacking the network which involved the use of his
9 Arabic language skills and his computer background. And he described
10 his observations of jihadists use of the internet in closed session.

11 Commander Aboul-Enein testified as an expert in Al-Qaida
12 terrorism and ideology. And he described the use of propaganda by
13 Al-Qaida to recruit, obtain financing, and incite followers. He
14 described how the compromised information was used by Al-Qaida in
15 propaganda videos and specifically how Al-Qaida edits videos to
16 achieve effect. He also described how the compromised material, and
17 specifically the SIGACTs was of interest to Al-Qaida. And he
18 testified that it was his opinion that Al-Qaida would use SIGACT
19 information in their operations and that they had the capacity to do
20 so.

21 The government ended its sentencing case with two
22 witnesses: Rear Admiral Donegan and Major General McKenzie. And
23 Admiral Donegan was the Director of Operations for Central Command

1 for two years, the J-3, from 2010 to 2012, and he testified regarding
2 the J-2 and J-3 crisis action team. Personnel from the watch team at
3 CENTCOM were pulled to review compromised information for operations
4 and locations. And he testified that he personally issued the duty-
5 to-warn FRAGOs to units in Iraq and Afghanistan, and he described why
6 those were necessary similar to General Carr. And in open session,
7 he talked about why the crisis action team and the duty-to-warn
8 missions impacted operations at CENTCOM and also in Iraq and
9 Afghanistan. The crisis action team, the duty-to-warn missions, were
10 consuming, they were additive, and particularly what is universally
11 acknowledged as the most active area in the world operationally and
12 militarily. And these impacts certainly trickled down to the units
13 on the ground. They actually had to make the hard decision whether
14 to notify individuals who had been identified in the SIGACTs. And
15 the duty-to-warn missions were conducted over the course of 10
16 months. And as you know in closed session, he also had discussed the
17 impact the CENTCOM operations in two other countries as well.

18 And the government's last witness, Your Honor, was Major
19 General McKenzie who is the Director of Strategy Plans and Policy for
20 US Central Command, the J-5. He was a senior official developing the
21 overall strategic campaign plan for the headquarters working with
22 nations across the CENTCOM area of responsibility. He testified
23 about building relationships with foreign partners, why that's

1 important to US national security, and how his travel and personal
2 interactions with foreign officials contributed to our planning
3 efforts. And he ultimately testified that he personally observed the
4 impact on CENTCOM's future planning efforts and relationships with
5 foreign partners as a result of the release of the purported cables.
6 And in closed session, he described in very specific detail what he
7 meant by that.

8 Again, Your Honor, it wasn't personal for any of these
9 witnesses. They were honest and matter-of-fact. When it was
10 appropriate, they acknowledged the complexity of the region in which
11 they were working, or their region of expertise. They acknowledged
12 when other factors might have played a part. They were credible,
13 they were knowledgeable experts and senior officials who have spent
14 their careers serving the nation honorably. And what you heard from
15 each of them in open and closed sessions were examples of concrete,
16 identifiable harm to the mission of a particular entity, or to the
17 national security of the US. And when they were discussing the risk
18 of harm, they articulated that risk with great specificity. And with
19 respect to the government's sentencing case, the court learned that
20 there was a serious and substantial risk of harm caused by PFC
21 Manning.

22 And that may go without saying based on the volume of
23 information released. What the court also learned that it hadn't

1 initially heard before is how far reaching the actual impact was.
2 The disclosures were felt at the operational and strategic levels
3 militarily and diplomatically, serious impacts to bilateral military
4 relationships and to diplomatic relationships. There wasn't a
5 greater good, it wasn't great at all. It was destructive. The
6 disclosures damaged our reputation to the world and the ability of
7 our representatives to do their jobs. They undermined trust and
8 confidence built over decades. And once you've disclosed information
9 as indiscriminately as PFC Manning did, there is no telling where
10 that information goes. As you heard from Ambassador Kozak, the
11 Department of State reacted before the release of anything because in
12 his mind any foreign intelligence service worth their salt would have
13 the information almost immediately after the government lost
14 possession, and that's true of the enemy as well. In this case we
15 don't have to speculate. The information was found on the digital
16 media of Osama bin Laden.

17 Your Honor, contrast what you heard in the government's
18 sentencing case with the sentencing case of the defense. When I talk
19 about the defense sentencing case, Your Honor, I'm referring to the
20 Secretary of the Army 15-6 investigation. Through testimony the
21 court heard, the Secretary of the Army 15-6 was an administrative
22 investigation used to look across the Army at the way things were
23 being done, where the Army can do things better, and what policies

1 and procedures need to change going forward. The interviews with the
2 command took place in January of 2011, more than six months after PFC
3 Manning's arrest. Unit witnesses did not have the benefit of any
4 evidence in this case. And importantly, though, the focus was on the
5 2nd Brigade, 10th Mountain Division, the aftermath of WikiLeaks and
6 the suspicion that the Army may have played a--in the command, may
7 have played some part in setting the conditions for PFC Manning's
8 crimes. The Army and the command are not responsible, Your Honor.
9 You heard in great detail why that wasn't the case.

10 You heard testimony from multiple members of PFC Manning's
11 unit, professional Soldiers who put great thought into what they did.
12 They had multiple combat deployments, and the decisions they made
13 were influenced by the facts from the ground, facts known to them at
14 the time, their experience, and their best judgment. I will start at
15 the top with Colonel Miller, the 2-10 Commander. And you heard about
16 the process of deploying Soldiers. And you also heard about his
17 reasoning with respect to the rear detachment operations. They left
18 a strong leadership in the rear, but that the bulk of leadership was
19 forward so that Soldiers could be supervised downrange. And when
20 setting up operations in the rear, he ensured that new arrivals,
21 medical non-deployables, trouble makers, were separated in different
22 battalions. And within the first couple of months of the deployment,
23 Colonel Miller ordered a 100-day survey of his brigade because of

1 three suicides. He wanted to assess the climate, use facilitators to
2 see if there were any Soldiers who stood out as needing help. The
3 idea was to connect the Soldiers with a mission, so that they would
4 be less likely to harm themselves or someone else. It was about
5 identifying Soldiers who might need behavioral health treatment.
6 This was important. This was a novel approach, unheard of in the
7 Army, something designed to find the PFC Mannings. And it still
8 didn't bring him to the attention of the command. And the US ended
9 with Colonel Miller by asking him about his personal interaction with
10 him, no red flags, no reason for concern, PFC Manning seemed squared
11 away. And he testified unequivocally that he felt no pressure to
12 deploy a Soldier that was non-deployable and no pressure to leave a
13 Soldier in theater who he believed should be re-deployed to home
14 station.

15 Without going through every other witness the defense
16 called from the unit, here's what we learned from their testimony:

17 Number one, the command did its due diligence before the
18 deployment. The brigade used the Army's criteria and guides to
19 determine whether to deploy Soldiers.

20 Number two, people's opinions on what happened were
21 influenced by hearsay, rumor, and innuendo. They opined at the
22 Secretary of the Army 15-6 investigation team without the benefit of
23 facts.

1 Number three, the unit wasn't perfect. No unit in the Army
2 is perfect, but they did the best they could with the information
3 available to them at the time. When asked, witnesses stated that
4 2-10 Mountain was no different than any other deployed brigade combat
5 team.

6 Number four, the Army is not in the business of abandoning
7 Soldiers because of mental health issues. It does not do the Army
8 any favors, and it certainly doesn't do society any favors. Seeking
9 mental health treatment, even in the military intelligence community,
10 is not an impediment to serving, and the most junior Soldiers know
11 that.

12 Five, the command managed risk using the information they
13 had at the time.

14 Six, DEROGs are for serious allegations of misconduct, not
15 for Soldiers who have anger issues, are struggling with their
16 identity, or who are gay.

17 Seven, Captain Lim took over for Major Clausen as the
18 Brigade S-2 in January 2010. He's a top tier officer who ran the S-2
19 shop effectively. Although he was not immediately told the picture
20 Master Sergeant Adkins sent--or that was sent to Master Sergeant
21 Adkins on 24 April 2010, his knowledge of that picture on 24 April
22 would not have prevented PFC Manning's crimes. And we know that

1 because all the information that was stolen and compromised from the
2 SIPRNET in this case happened before April 2010.

3 Eight, Major Clausen was removed as the Brigade S-2 because
4 he had difficulty communicating intelligence work product with the
5 commander. There were no issues with respect to his management or
6 personnel management scheme.

7 Nine, allowing NCOICs to manage enlisted personnel issues
8 is not uncommon. It is the Army standard. Although particular
9 Soldiers felt that they should have more oversight over
10 administrative matters, the S-2 shop was organized to maximize
11 personnel contributing to the main effort, providing timely
12 intelligence to ground units.

13 Ten, members of the command team had personal interactions
14 with PFC Manning, including the brigade commander before the
15 deployment, and the company commander during mid-tour leave. Neither
16 commander had any reason for concern. Members of PFC Manning's unit
17 saw him every day, they reached out to PFC Manning, and included him
18 in activities. Other than occasional outbursts of anger, there was
19 nothing out of the ordinary. And the only exception to that was when
20 PFC Manning attacked Ms. Showman. After PFC Manning attacked Ms.
21 Showman on May 8, 2010 he was removed from the SCIF, and he was sent
22 to work in the supply room, and the command initiated a DEROG.

1 In this case, Your Honor, it also helps to look at the
2 timeline the defense deems so important. In summer of 2009, PFC
3 Manning got angry after being counseled for missing PT. And on two
4 occasions in December 2009, PFC Manning again got angry after being
5 counseled, once for losing his room key and once for being late to
6 work. Chief Ehresman called the 20 December 2009 incident a "temper
7 tantrum." Around this time, Master Sergeant Adkins chose PFC Manning
8 as one of the first Soldiers to go on mid-tour leave to get a break,
9 reset, and rest for the rest of the deployment, a perfectly
10 appropriate response to someone who seems stressed by their first
11 deployment. And the next incident doesn't happen until 24 April 2010
12 when PFC Manning sends a picture to Master Sergeant Adkins.

13 Your Honor, think about all of the evidence you saw with
14 respect to PFC Manning's SIPRNET activity between 15 February 2010
15 and 24 April 2010. There were no questions raised with respect to
16 whether PFC Manning can be trusted with classified information. His
17 outburst were anger related, and in response to being counseled. He
18 didn't like being corrected. And after PFC Manning physically
19 assaulted Ms. Showman, he was immediately removed from the SCIF and a
20 DEROG was initiated.

21 The point of all of this, Your Honor, is that the tendency
22 in life is to think you would have done something differently when
23 looking at a set of circumstances after the fact. But the bottom

1 line is that nothing was uncommon. It was not uncommon to deal with
2 temper tantrums with something less than the immediate initiation of
3 a DEROG. Master Sergeant Adkins clearly cared about his Soldiers and
4 the memorandums for record are not the smoking guns in this case. He
5 generated them to augment the picture of the behavioral health
6 specialists. He wanted PFC Manning to succeed and finish his
7 enlistment. And the behavioral health specialist never indicated
8 that there were larger problems aside from when Captain Worsley
9 finally diagnosed him with Gender Identity Disorder.

10 The Army demands that senior non-commissioned officers use
11 every tool in their toolkit before cutting sling load with a Soldier.
12 Master Sergeant Adkins used his experience, his personal interaction
13 with Manning over the course of his time at Drum and Iraq, and
14 applied his best judgment to PFC Manning based on the evidence in
15 front of him. Master Sergeant Adkins didn't take the road less
16 traveled. His choices in this case did not make all the difference,
17 and they were not a death sentence for the protection of classified
18 information. The focus should remain squarely on PFC Manning, Your
19 Honor. This case is about him, what he did, the damage he caused.

20 That leads us to the doctors. Captain Worsley and
21 Commander Moulton, as witnesses and experts, are only as good as the
22 information provided to them. In this case, their opinions and
23 apparent insight were based in large part on what was relayed to them

1 by PFC Manning. And the evidence showed that PFC Manning is an
2 unreliable narrator at best. Captain Worsley made a number of
3 statements that were flatly contradicted by the facts in evidence in
4 this case. It was clear from the unit witnesses that PFC Manning was
5 not alone. There were people who tried to include him in activities,
6 people that cared about him. This wasn't a hostile environment as
7 Captain Worsley stated.

8 And again, you now have the email from PFC Manning to Tyler
9 Watkins on 28 November 2009 admitted as part of the rebuttal case.
10 And in it, PFC Manning says, "I was very busy indeed. But I still
11 have the chance to have dinner among good friends that I am out to.
12 I didn't even have to come out to them, they just called me out on
13 it." These are PFC Manning's own words, Your Honor. And they
14 confirm what you saw in the chats. There were other people--gay
15 people in the unit, people were quite open about it, and he was open
16 with them about his sexuality.

17 And think about the SIPRNET searches PFC Manning conducted
18 on 28 November 2009, Your Honor. That was the first time he searched
19 for an item that also appeared on the WikiLeaks Most Wanted List.
20 But perhaps the most troubling aspect of Captain Worsley's testimony,
21 which would stick out in your mind, was when Captain Worsley talked
22 about PFC Manning's breakthrough. The breakthrough came when PFC
23 Manning was referred by the command after hitting Showman on 8 May

1 2010. Captain Worsley testified that PFC Manning finally felt more
2 comfortable, the secret was out about his gender identity, and it was
3 a big relief. PFC Manning appeared more positive. Okay, that's
4 fine, but what are we to make of the fact that six days later, PFC
5 Manning steals the emails and personal identifying information of
6 76,000 service members? PFC Manning's gender disorder was causing
7 extreme stress for PFC Manning, stress that was impairing his
8 judgment and causing him to act out by leaking classified
9 information. Why didn't he stop? If the two were related in any
10 way, why didn't he stop?

11 Then you heard from Commander Moulton, and ultimately his
12 testimony falls flat. As part of his review, Commander Moulton
13 interviewed PFC Manning over a period of time, about a year after his
14 arrest. And PFC Manning knew why he was meeting with Commander
15 Moulton, he is a smart guy. Commander Moulton diagnosed PFC Manning
16 with Gender Dysphoria, noted that he had a narcissistic personality
17 trait. No kind of narcissism would impair the normal development of
18 someone in the post-adolescent stage of their life. Commander
19 Moulton testified that PFC Manning was under severe emotional stress
20 at the time of the offenses, and stress impaired his thought process.
21 But Commander Moulton never commented on the fact that the stress
22 could easily have been the product of a knowing, deliberate violation
23 of the law over the course of six months. What Commander Moulton was

1 unable to satisfactorily explain was what any of this has to do with
2 stealing and transmitting classified government information over the
3 course of six months? Post-adolescent idealism, as Commander Moulton
4 admitted, is common in most 18-24 year olds. And Commander Moulton
5 may have glanced at the charge sheet, but Commander Moulton did not
6 have the benefit of evidence in this case. What would he make of it,
7 of the fact that 76,000 emails after PFC Manning has, in Captain
8 Worsley's words, "finally been relieved of the burden"? If Commander
9 Moulton had access to that information, how would it change his
10 opinion?

11 Commander Moulton testified that PFC Manning offered during
12 interviews that PFC Manning's friend, Danny Clark, was unavailable to
13 him during his deployment. PFC Manning apparently felt, in
14 hindsight, that he hadn't been able to reach Danny Clark, a friend
15 who he really looked up to that might have prevented the acts. What
16 the court now has the benefit of, Your Honor, is evidence that PFC
17 Manning's statements to effect are completely false. PFC Manning and
18 Mr. Clark were in email contact, and they were chat buddies. And
19 although the forensic examiner was only able to find remnants of
20 instant messenger chats with Clark, look at the content. Mr. Clark
21 is asking about the unit. They've been in contact. He knows
22 specific facts. And these chats were on the same day, 18 March 2010,
23 as chats between PFC Manning and Julian Assange. Ask yourself if you

1 truly believe that Mr. Clark was unavailable to PFC Manning. The
2 bottom line is that Commander Moulton's opinions were only as good as
3 the information provided to him by the patient. And in this case,
4 the patient was unreliable and his insight is self-serving.

5 Ultimately, Your Honor, that is why you have to divorce
6 whatever issues PFC Manning has, and the crimes in this case. The
7 United States is not disputing that PFC Manning may have been
8 struggling with his gender identity. The government's only question
9 is why that matters? What does that have to do with PFC Manning's
10 crimes, his intent, his intentional violation of the law on repeated
11 occasions? Why was the solution to create risk for everyone else?

12 We can't know who PFC Manning is, we only know what he did.
13 That's because there are people in the Army then, there are people
14 now who are gay, who had strained relations with significant others.
15 There are people in the Army now who might be struggling with gender
16 dysphoria. We take Soldiers every day that are the product of broken
17 homes, with alcoholic parents. Sometimes they are the victims of
18 abuse. They join the military for a better life, they join the
19 military for the GI Bill, they join in the post-adolescent stage of
20 their life when they believe they can change the world for the
21 better. And that's true. When you are honorably serving the
22 country, you are contributing to something larger than yourself. You
23 are helping to make the world a better place. And sometimes Soldiers

1 become disillusioned by war, and sometimes Soldiers become
2 disillusioned by garrison rules. For every Soldier PFC Manning
3 didn't get along with, there were thousands of fellow Soldiers
4 building schools, protecting civilians from sectarian violence,
5 contributing to humanitarian aid missions in the valleys of Pakistan.
6 And somewhere along the way, PFC Manning forgot them. And it wasn't
7 the military's fault, it wasn't the command's fault, it wasn't
8 because he saw something horrible, it was because he had an agenda
9 that was clear from the SIPRNET searches for information related to
10 WikiLeaks in late November 2009. In the military, we take care of
11 our fellow Soldiers. We support the mission, we respect the chain of
12 command, or we get out. In PFC Manning's world, "we do what we want
13 without regard to consequences." PFC Manning's thought process was
14 impaired by his agenda and his destructive world view.

15 There's been so much hype about PFC Manning, Your Honor.
16 But in the end, it doesn't matter. It matters that he took an oath
17 and he knowingly broke it, he put others at risk through his
18 deliberate actions, and he impacted the mission. At certain points,
19 Your Honor, the defense has tried to make this case about the amount
20 of people with access to the SIPRNET. But you heard good reasons for
21 that in the Post 9/11 world. Compartmentalizing information,
22 restricting information sharing, is not in the best interests of our
23 country. Soldiers, even Soldiers at the grade of E4 are going to

1 continue to have access to the SIPRNET. We're going to trust them
2 because we need them, and they deserve to be trusted. And we have to
3 be able to trust people because the system is built that way. Our
4 systems are going to be more complex, not less. We could take all
5 the mitigation steps in the world, but the bottom line is that there
6 is no step we can take as a nation, as a military, that's going to
7 stop the determined insider. Our systems will always be exploitable
8 to someone. But even if we set aside all reason and common sense,
9 and assume the US government is responsible for all of this, where
10 are all the other PFC Mannings? They don't exist. Military
11 intelligence professionals go to work every day and they use the
12 information available to them to do their jobs. PFC Manning
13 volunteered and he chose military intelligence. The evidence showed
14 that he didn't like taking directions. He didn't like being
15 criticized by his peers or superiors, and he would react with temper
16 tantrums. These are not excuses. In the end, no one in the US
17 government or 2-10 Mountain could have seen this coming or expected
18 it.

19 Your Honor, there are a number of factors in this case the
20 government asks that you keep in mind--in the forefront of your mind
21 during deliberations:

22 First, you heard the word "snapshot" at various points in
23 this trial, Your Honor. And when talking about the CIDNE

1 information, the Department of State information, that may be true to
2 some extent in context. The word "snapshot" is deceiving, Your
3 Honor. Keep in mind that the CIDNE information was current through
4 31 December 2009. It was transferred to WikiLeaks within a month of
5 its generation, evidently. And the same is true with the Department
6 of State cables, Your Honor. The cables stolen by the accused were
7 through the end of February 2010. He began downloading the first
8 batch of Department of State cables on 28 March 2010. And if you
9 look at what was in the Net-Centric Diplomacy database, witnesses
10 testified that the vast majority of the cables contained in that
11 database were from 2005 and onward. This was current information,
12 Your Honor. Current information had more value and PFC Manning knew
13 that, which is why he went back to the NCD database on 4 May 2010 to
14 steal cables published in March and April.

15 Second, Your Honor, at the time PFC Manning committed the
16 misconduct, he was deployed to an active theater at war. His crimes
17 spanned the entire deployment. Our operations in Iraq may have been
18 focused on the transition to Iraqi control, but that does not make
19 what our military was doing there any less dangerous. And with
20 respect to Afghanistan, combat operations were ongoing. And outside
21 of active theaters, you heard testimony related to kinetic and
22 non-kinetic activities and other countries within the CENTCOM area of
23 responsibility, and the compromised information in this case related

1 to those wars, and revealed information related to other operations.

2 The US asks that you keep that in mind when deliberating.

3 Third, the initial step in every one of PFC Manning's
4 crimes occurred while he was on duty working in the SCIF as an
5 intelligence analyst. Every day on shift was a day he used to abuse
6 his access to the SIPRNET from November 2009 to May 2010. PFC
7 Manning decided that his time was better spent exploiting his access
8 rather than focusing on the most active and dangerous threat group
9 facing the unit and their operating environment, Your Honor.

10 Fourth, PFC Manning abused a position of trust. He should
11 be held to a higher standard than the rifleman or mechanic who commit
12 similar crimes. On a day-to-day basis, he used the type of
13 information compromised. He signed multiple non-disclosure
14 agreements. He received training as an intelligence analyst,
15 training related to the nature of the threat or risk that is
16 significantly more detail than any other MOS in the Army. And he
17 acknowledged, at certain points, that harm could result from
18 disclosures of information. He repeatedly took matters of national
19 security into his own hands, abusing the special trust our government
20 places in the hands of intelligence analysts and those with security
21 clearances.

22 Fifth, the volume of information compromised in this case
23 almost defies belief. It is unprecedented in our nation's history.

1 And as we rely more and more on databases and information systems, it
2 is important that the court account for the role that the volume of
3 information played, and the crises that followed from the public
4 disclosure of information PFC Manning stole.

5 Six, Your Honor, after PFC Manning's removal from the SCIF,
6 he used access to unclassified systems to continue with misconduct.
7 He was humbled, but not deterred in any way.

8 Finally, Your Honor, PFC Manning's case in extenuation and
9 mitigation rested in part on what the defense believes were failures
10 of the command to police the unit or take appropriate steps to
11 protect the systems or information. With respect to security
12 vulnerabilities, what's clear from reading the chat log is that PFC
13 Manning was well aware of the weaknesses in the system, and he took
14 deliberate advantage of those weaknesses to commit his crimes.
15 Included in this was his attempt to bypass security mechanisms on his
16 SIPRNET computer. He wanted anonymous access. His extenuation is
17 really aggravation, Your Honor. PFC Manning was a determined
18 insider.

19 The United States asks you to sentence PFC Manning to:
20 forfeit all pay and allowances; to pay the United States a fine of
21 one hundred thousand dollars, a fine to account for the resources
22 expended by the United States to mitigate the risk of harm; to reduce

1 PFC Manning to Private E1; to confine him for no less than 60 years;
2 and to dishonorably discharge him from the service.

3 There is value in deterrence, Your Honor. This court must
4 send a message to any Soldier contemplating stealing classified
5 information. National security crimes that undermine the entire
6 system must be taken seriously. Punish PFC Manning's actions, Your
7 Honor. Think about the volume of information in this case: more than
8 700,000 records; complete, and partial databases. Your sentence can
9 ensure we never see a number like this again. Think about the
10 initiatives and work that were brought to a halt by what he did.
11 Think about the military and diplomatic relationships that were
12 severed. Think about the impact of the mission. If you violate the
13 trust of your superiors, if you're deployed and your actions place
14 the Soldiers you serve with at risk, if you act in your own narrow
15 self-interests, if you disclose information that aids our
16 adversaries, if you betray your country, you do not deserve the mercy
17 of the court of law. PFC Manning took an oath; he knew what he was
18 doing. The Army didn't abandon PFC Manning; PFC Manning abandoned
19 the Army. The Army didn't betray PFC Manning; PFC Manning betrayed
20 the Army. Thank you.

21 MJ: Defense, do you want to take a brief recess before
22 beginning?

1 CDC[MR. COOMBS]: Yes, Your Honor. I need to set up something
2 over here.

3 MJ: How long do you think it will take?

4 CDC[MR. COOMBS]: We could start right at 1400; that would be
5 fine.

6 MJ: All right. Court is in recess until 1400, or 2 o'clock.

7 **[The court-martial recessed at 1349, 19 August 2013.]**

8 **[The court-martial was called to order at 1400, 19 August 2013.]**

9 MJ: Court is called to order.

10 Let the record reflect all parties present when the court
11 last recessed are again present in court.

12 Mr. Coombs, are you ready?

13 CDC[MR. COOMBS]: Yes, Your Honor.

14 MJ: Proceed.

15 CDC[MR. COOMBS]: Thank you, Your Honor.

16 [Defense published a slide show marked as Appellate Exhibit 664]

17 CDC[MR. COOMBS]: Your Honor, the argument by the government
18 today is interested in one thing and one thing only, and that's a
19 punishment. An argument does not take into account the individual
20 circumstances of PFC Manning or his offenses. When you argue for 60
21 years, when you argue for that based upon the facts in this case,
22 it's clear they're only interested in the punishment. Our system has
23 evolved from a punishment-only viewpoint. We try to balance not only

1 the needs of the service and the unit, and the needs of the Army for
2 good order and discipline, with the needs of the individual Soldier.
3 And it's not a punishment-only system. And as the court knows from
4 your vast experience, both parties are given the opportunity to tell
5 you, or at least argue to you what they believe should be an
6 appropriate sentence. And often times, that doesn't really help the
7 court all that much. And the reason why is both sides are very
8 biased.

9 Somebody sees something in the 60-year realm and somebody
10 over here might see something as, you know, "just let him go home
11 today." And understanding that that is a difficult thing for the
12 court to hear, and then incorporate that into what should be an
13 appropriate sentence, today the defense is going to try to do, and
14 what I am going to try to do, is to give you an argument for an
15 appropriate sentence that recognizes that I'm biased, but tries to do
16 it in a very factual way that gives the court something to actually
17 look to when making that decision. And obviously, and the court well
18 knows this, when you start off, 1001(g), is what our recognized
19 sentence principles are for why we would sentence somebody, and how
20 we would come to an appropriate sentence. And with a judge alone
21 determination for that, this is obviously one of the more heavier
22 determinations that a court would make. So I would like to take a

1 moment now to go through what the defense believes are individual
2 facts that can fit within R.C.M. 1001(g) to help the court:

3 For starters, PFC Manning's age and rank; PFC Manning was
4 21 years old at the time that he deployed. During the deployment, he
5 turned 22 in December. He had limited experience in life, and he
6 also had very limited military experience, and the decisions that he
7 made in this case during that deployment were a product of his
8 limited experience and limited knowledge.

9 As Commander Moulton testified, PFC Manning was also in a
10 post-adolescent idealism stage. Now it's true that that's not
11 atypical, and that's actually a good thing that it's not that
12 atypical. Because in that stage, that's when individuals believe
13 they can make a difference in this world. As Dr. Moulton testified,
14 that is what explains a lot of college-level activism. That is what
15 explains people who are a part of all grassroots organizations that
16 are designed to change the world, and that's exactly the position
17 that PFC Manning was in. And he had pure intentions at the time that
18 he committed his offenses. That's something that the government has
19 never argued, that he didn't. He clearly had pure intentions, and we
20 know that from his chat conversations with Adrian Lamo. At that
21 time, PFC Manning really truly genuinely believed that this
22 information could make a difference. And more importantly, he

1 believed that the information couldn't be used to harm the United
2 States at the time.

3 A position of trust, something that the government did
4 argue, which is correct. PFC Manning was in a position of trust. He
5 had signed non-disclosure agreements. He was placed and trained in a
6 position that entrusted him with classified information, and with a
7 sense of duty and obligation not to disclose that to anyone who did
8 not have authorization to see it. But there was another violation of
9 trust, and the trial counsel tried to make it seem as if the military
10 and the Army, they have no responsibility in this conduct at all.
11 And here that would be ignoring the facts of this case. We do have a
12 unit, there's another issue of trust. We trust that our command will
13 enforce standards. That's what we trust. When we give the Army our
14 sons and daughters, we trust that they will have a leadership that
15 will set a standard, enforce that standard, and if somebody's not
16 living up to that standard, take corrective action. And in this
17 instance, the memorandums for record are the smoking gun in this
18 case. It is the smoking gun in this case, because you have a
19 leadership--a Master Sergeant, who is aware of the issues of PFC
20 Manning, very aware of them. And when you read one of those
21 memorandums for record, they may be dated at different times, both in
22 December, April, and May, but they talk about conduct both
23 pre-deployment, and then early deployment, and then going all into

1 April timeframe. And what's important here is Master Sergeant Adkins
2 was aware of this, and yet he didn't do anything to notify those
3 people who we entrust with the statutory obligation to lead, and that
4 is the command. Whether that be Captain Freeburg or his predecessor,
5 a person who actually would make a determination, is PFC Manning the
6 type of Soldier, based upon what he is experiencing, that we want to
7 be in the S-2 section? Should he be redeployed? Should he deploy at
8 all? Determinations that were way above Master Sergeant Adkins' pay
9 grade, or for that matter, the S-2's pay grade, should have been made
10 by the command, a commander, yet was not. And that had consequences.

11 And when you look into the December of 2009 incident,
12 again, to clarify that or to try to explain that is just simply a
13 disruption among a counseling session with Specialist Padgett, is to
14 minimize what occurred there. Chief Ehresman felt the need to
15 restrain PFC Manning. He thought PFC Manning was going towards the
16 weapons rack. Specialist Padgett said, "I stepped in between PFC
17 Manning and the weapons rack. I didn't want him to get to the
18 weapon." Now whether or not he was going for a weapon was almost
19 immaterial, the fact that two members of the unit thought that, and
20 when you see that display, again coupled with everything that the
21 unit knew about him before, and multiple Soldiers testified about
22 knowing that PFC Manning was struggling with issues, and Master
23 Sergeant Adkins was fully aware of it at the time. That is when

1 corrective action should have been done. That is where, especially
2 when you are dealing with an MOS, a military specialty where you have
3 access to classified information, very basic information assurance
4 practices should have required, at the very least, a commander to
5 make a determination, "should I do a DEROG or not? Should I suspend
6 his access to the SCIF for a period of time, maybe move him somewhere
7 else that's a little less stressful?" But again, they kept showing
8 and highlighting the failure to take basic actions that we would
9 expect from a member of the chain of command.

10 Master Sergeant Adkins walks into a supply room and he sees
11 PFC Manning on the floor, rocking back and forth. He's got a knife
12 in front of him, and he's got the words, "I want," etched into a
13 chair. Clearly he did that because you see the vinyl remnants also
14 at his feet. And Master Sergeant Adkins says he talks to him for an
15 hour, and PFC Manning is definitely distraught at that point. He's
16 dealing with very significant issues. And I asked Master Sergeant
17 Adkins, "why in the world at that point wouldn't you just get PFC
18 Manning up, escort him right to mental health, notify the chain of
19 command, take the basic steps that we would expect of our leadership,
20 why wouldn't you do that?" And his response, "there was work that
21 needed to be done." And that's when he put PFC Manning back to work,
22 and the court knows what happened later that day, the assault of
23 Specialist Showman.

1 Granted, the chain of command shouldn't be put at their
2 feet of envisioning a disclosure to WikiLeaks. That may be something
3 that they could not have predicted. But when you have a Soldier who
4 is symbolically and actually crying for assistance, then that
5 requires a chain of command to take action. Certainly they could
6 have predicted that you would have some conduct that would warrant
7 UCMJ action. And the failure, the utter failure to take any action
8 at that point is inexcusable. So there was a violation of trust.
9 PFC Manning violated his duty of trust, yes. But that is tempered by
10 the chain of command's conduct. His impact -- or the impact based
11 upon these offenses. But the court has heard, and we've heard a lot
12 of evidence, but the majority of what we've heard from impact is
13 temporary, certainly, in nature. The idea of any long-term impact is
14 speculative at best. The impact that was discussed was how they
15 initially dealt with the leak. And certainly that is an impact, the
16 cost of standing up the Information Review Task Force, the actions by
17 the Department of State in addressing what they perceive potential
18 problems. Again, those are legitimate impacts. PFC Manning accepts
19 responsibility for those impacts and the defense has not tried to
20 shirk away from those impacts. But the idea that these impacts are
21 ongoing, or continuing, or getting worse as time goes by, is to
22 ignore reality. And the reality of the situation is that these --
23 this long-term impact, is again something that is, in certain

1 witnesses' testimony, again speculative, but they're testifying from
2 a position of the Department of State, wanting to say that, "oh, we
3 don't think X is happening because of these leaks," but they can't
4 truly tie what they believe to have occurred with these leaks; they
5 make a guess.

6 From a military standpoint, we have certainly operations
7 that were impacted. But that's not to say that any of our operations
8 wouldn't have been impacted by other things that occurred immediately
9 thereafter. And where these operations were impacted, we're dealing
10 with a very volatile area where things change rapidly. So certainly
11 there was some impact. But the idea that this is a long-term thing,
12 again, is speculative at best, and the risks, there were risks.
13 That's not to minimize the fact that there weren't risks from these
14 leaks. Whenever you're talking about over 700,000 pages of
15 documents, something that PFC Manning could not have read in its
16 entirety, certainly there are risks. But you also have to look at
17 what was his genuine belief at that time? And we know that from the
18 chats more so than anything else. The SIGACTs are things that
19 happened in the past; he was very familiar with those. And more than
20 one witness testified as kind of a historical record, several
21 government witnesses tried to say it gave away our playbook, but
22 that's not really accurate.

1 When you look at these SIGACTs, they talk about things that
2 happen in the past, almost as if you're reading a newspaper of a past
3 account. They're not future looking. They're not talking about
4 changes. They're not talking about how we're going to change our
5 TTPs, or how we're going to adjust certain things. And we know from
6 certain witnesses' testimony that these SIGACTs didn't have impact
7 because we didn't change anything. But then you also have the
8 cables, and again looking to the Lamo chats, that will give you an
9 insight to PFC Manning's mind at that time as well. He indicated, "I
10 wasn't so sure about these," and then there is a link to that, which
11 the link goes toward what is a SIPDIS cable and the court has the
12 benefit of the Department of State regulation on what is a SIPDIS
13 cable, what type of information should go into a SIPDIS cable? It's
14 the type of information that can be shared across the interagencies.
15 It's the type of information that you would want to share with well
16 over a million people, certainly not our deepest, darkest diplomatic
17 secrets. Not to say that there wasn't potential risk there, but
18 these are not the type of secrets that would be much more
19 restrictively held.

20 So again, looking at the risk, recognizing that there was
21 some, then also looking at his genuine belief at the time, PFC
22 Manning's acceptance of responsibility, he pled guilty without the
23 benefit of a deal and admitted to the conduct that he said he did.

1 And this plea of guilty subjected him to the possibility of 20 years
2 at the time. Certainly he took the very first step towards what we
3 would say is rehabilitation. He accepted responsibility. He entered
4 into over 58 stipulations of fact and stipulations of expected
5 testimony. And these stipulations work out to in the hundreds of
6 pages. And if you just look at the stipulations alone, that
7 undoubtedly saved weeks if not months from this trial, which is a
8 long time. And that saved the government time and money, and effort.
9 He didn't have to do that, but he did. Again, part of his acceptance
10 of responsibility, not minimizing his conduct. He waived OCONUS
11 witnesses that really only came to play in sentencing, but he waived
12 them for merits as well, and yet, some of them still came. But
13 again, trying to save the government time and money. And all of that
14 does go towards the goal of rehabilitation and our whole goal with
15 rehabilitation is to restore people to a productive place in society,
16 and he has taken a substantial step towards that through his plea,
17 through his conduct throughout this trial, through willing to
18 stipulate with the government to save them time and effort, he has
19 proven that he is an excellent candidate to be rehabilitated, to be
20 restored to a productive place in society.

21 And society has an interest in that happening. Society
22 does not have an interest in defining PFC Manning by his conduct, or
23 in defining PFC Manning by his upbringing. Society's interest is in

1 restoring this young man to a productive place. And when you look at
2 the reality of the situation here, again, not to minimize the risks,
3 but the reality of our situation is, as we stand here today, we're
4 out of Iraq. We're not in Iraq. We're on our way out of
5 Afghanistan. Guantanamo, if the President has his way, will be
6 closed. Diplomacy, we know, continues. The Department of State made
7 a point of saying that this really kind of showed that we are good at
8 our jobs. And diplomacy is ongoing again. As the Secretary of State
9 -- or Secretary of Defense testified -- or said, this is not the type
10 of stuff that, "the sky is falling-type issue," that diplomacy will
11 continue, that countries will still deal with us, and that has
12 happened in this case. Many countries forgot about the WikiLeaks and
13 moved on. So again, looking at the reality of the situation and then
14 seeing what the government wants to give for something that even at
15 its best when it was classified would only be classified for 25 years
16 unless somehow that was extended. But many of the things, when you
17 look at them, they will have an expiration date of when they should
18 no longer be classified. And the government wants to give him 60
19 years.

20 Another issue for the court to consider is PFC Manning's
21 emotional state the time. It's clear he was dealing with a difficult
22 issue, and we offered that difficult issue to explain context as to
23 what happened, not to excuse it, not to minimize it, but to explain

1 what this young man was going through at the time. And it's
2 important to note that despite the government's belief that he had a
3 whole bunch of great friends, you heard testimony to the contrary;
4 very reliable testimony that he was always by himself, that he had
5 the door pushed in his face, literally, and figuratively; that he
6 wasn't a person who had a battle buddy that he was walking around
7 with. And there were many red flags for the unit to see and to act
8 upon. And any one of those things, certainly if they happened in
9 December of 2009, would have prevented PFC Manning's conduct. And
10 even when you look at the emotional health issues that came out in
11 the testimony, the one thing that rang true from the very earliest
12 pieces of information that we know, the Lauren MacNamara chats to the
13 very latest, and that is Dr. Moulton and Adrian Lamo chats, is that
14 PFC Manning cared about human life. He was a humanist. And perhaps
15 his biggest crime is that he cared about the loss of life that he was
16 seeing and couldn't ignore it, and was struggling with it.

17 When you look at what his goals were when he started out
18 his deployment: "I want to do everything I can to help my command,
19 to make sure that every Soldier gets back, every Marine, every local
20 contractor gets back home safely." And more importantly within that,
21 "I want to make sure that even the local nationals get home safely."
22 That was the burden that he placed upon himself. And when they talk
23 about "disillusioned with war," really what we're talking about is

1 having humanity, looking at something and saying, "I just can't
2 believe this is what we need to do." And so when he releases those
3 SIGACTs and we see that he thinks that those are the most important
4 documents in the 21st century revealing the fog of war--or lifting
5 the fog of war, showing the true nature, a 21st asymmetric warfare.
6 When he writes those things, Dr. Moulton is telling the court that he
7 truly believes that this could end the war in Iraq, it could end the
8 war in Afghanistan, and it would even, when the public looks at this,
9 takes it into account, studies it, would even question the need ever
10 for future wars.

11 As naïve as that belief may be, it was a sincere belief.
12 And this is the person the government wants to give 60 years. And
13 then at the end of the day, that's the government's argument. "He
14 did something wrong, give him 60 years. Throw away his life. He can
15 spend the rest of his life in jail," long after the memory fades from
16 this argument here today, long after any sort of possible damage or
17 anyone remotely believing there is a possibility of damage from this
18 information fades, long after this information is probably no longer
19 even classified, that's still classified, long after that day has
20 past, the government wants PFC Manning rotting in a jail cell.
21 That's what they've asked this court to do. And envisioning the
22 possibility of the government's argument, it's very easy to say a
23 certain amount of years. It rolls off the tongue, 60 years. It

1 doesn't take long to say. It's only when you start to put that into
2 context do you truly understand how wrong it would be to give a
3 sentence like that.

4 Sixty years is almost three times the length of PFC
5 Manning's life. It's longer than any of the parties here today have
6 been alive. It is. I have it on good authority. But again, when I
7 look at 60 years, to put into context in historical times, when you
8 look back at what occurred 60 years ago, I didn't envision 60 years
9 being an argument. I did envision the possibility of 40 years. In
10 40 years, we had man's first footsteps on the moon, Neil Armstrong,
11 first step on the moon 40 years ago. The Supreme Court decided *Roe*
12 *v. Wade* 40 years ago. Vietnam War was just about ending. We were
13 pulling our troops out. President Nixon was our President 40 years
14 ago, and he was embattled in Watergate at the time. But that was 40
15 years ago. You have to add another 20 to get where the government
16 wants you to be. Thirty years ago, cell phones were first introduced
17 to the American public. E.T. was the number one movie in America,
18 with a young Drew Barrymore. Margaret Thatcher was elected as Prime
19 Minister of the UK. That's 30 years ago. Think about that for a
20 minute, how long ago that seems. Twenty years ago, federal agents
21 raided the Waco compound in Waco, Texas. *Sleepless in Seattle* was
22 the number one movie in America. A very young President Clinton and
23 his wife, Hillary Clinton, going to the White House for their very

1 first term. That was 20 years ago. Ten years ago, Operation Iraqi
2 Freedom results in the fall of Sadaam's regime. Private Lynch, among
3 other Soldiers are rescued after being captured by the enemy.
4 President Bush announces on USS Abraham Lincoln the end of major
5 combat in Iraq. And space shuttle Columbia disintegrates on reentry,
6 killing all seven astronauts aboard. That was 10 years ago.

7 Again, when you think about the time of 60 years, it's 1953
8 by my estimation, what was happening in 1953? That's how long the
9 government wants PFC Manning to sit in jail. And that would be
10 wrong. The appropriate sentence in this case would be a sentence that
11 takes into account all the facts and circumstances that you are aware
12 of. It gives PFC Manning an opportunity to be restored to a
13 productive place in society. It doesn't rob him of his youth. It
14 gives him the opportunity, perhaps, to live the life he wants in the
15 way that he would like, to perhaps find love, maybe get married,
16 maybe have children, to watch his children grow, and perhaps have a
17 relationship with his children's children. That would be an
18 appropriate sentence.

19 When you look at PFC Manning, the government has labeled
20 him as a traitor, as an insider, others have labeled him as a hero.
21 Either one of those are overgeneralizations. They ignore who he is
22 as a person. And unlike most courts-martial, this court has had a
23 year and a half to see the conduct of PFC Manning. You've heard from

1 him on multiple occasions. And you've undoubtedly seen what the
2 defense has seen, what I have seen over the last three years. PFC
3 Manning is a lot of things. He is a young man. He is a very
4 intelligent man. He is a little geeky at times, but he is caring.
5 He is compassionate. He's respectful. And he's a young man who
6 certainly at this time was in fact young, was in fact naïve, as to
7 the second- and third-order effects, but certainly he was good
8 intentioned. And this young man now sits before you, Your Honor,
9 three years wiser. Three years of being in confinement, and some of
10 that confinement as the court has determined, was unlawful. And that
11 brings up the other thing that he is. He's resilient. When others
12 might have broken, he didn't. And his resilience is something that
13 would also make him a prime candidate to be rehabilitated, to be
14 restored to a productive place in society. This is a young man who
15 is capable of being redeemed. You should not throw this man out for
16 60 years. You should not rob him of his youth. Your Honor, the
17 defense requests that you, after considering all of the facts in this
18 case, adjudge a sentence that allows him to have a life. Thank you,
19 Your Honor.

20 MJ: Before I recess the court, I would like to go over the
21 post-trial and appellate rights advice. I am looking at what has
22 been marked as Appellate Exhibit 579 consisting of five pages, dated
23 15 July 2013.

1 PFC Manning, look at the back page there. Is that your
2 signature?

3 ACC: Yes, ma'am.

4 MJ: Mr. Coombs, has the defense advised PFC Manning orally and
5 in writing of his post-trial and appellate rights?

6 CDC[MR. COOMBS]: We have, Your Honor.

7 MJ: PFC Manning, did the defense team explain your post-trial
8 and appellate rights to you?

9 ACC: Yes, Your Honor.

10 MJ: Did they explain what matters you may submit to the
11 convening authority before he takes action under R.C.M. 1105 and
12 1106?

13 ACC: Yes, Your Honor.

14 MJ: Did your defense team explain to you that under those rules
15 R.C.M. 1105 and 1106, you may submit any matters to the convening
16 authority to include, but not limited to, personal letters and
17 documents, letters and documents from other people, request for a
18 deferment and waiver of forfeitures, and any other matter that you
19 want the convening authority to consider before taking action in your
20 case?

21 ACC: Yes, ma'am.

1 MJ: Do you understand that it's your responsibility to keep in
2 touch with your defense counsel and let them know your desires in
3 this regard?

4 ACC: Yes, ma'am.

5 MJ: And do you understand that if your defense counsel can't
6 find you, it will be difficult for them to know what to submit to the
7 convening authority before he takes action?

8 ACC: Yes, ma'am.

9 MJ: If your defense counsel tries to contact you but is not
10 successful, do you authorize your defense team to submit clemency
11 matters on your behalf as they deem appropriate?

12 ACC: Yes, Your Honor.

13 MJ: Do you have any questions about your post-trial and
14 appellate rights?

15 ACC: No, ma'am.

16 MJ: Which counsel will be responsible for post-trial actions in
17 this case and upon whom the Staff Judge Advocate's Recommendation
18 will be served?

19 ACC: It's Mr. Coombs, Your Honor.

20 MJ: Is that correct?

21 CDC[MR. COOMBS]: That is correct, Your Honor.

22 MJ: Does either side, at this point, have a number of pretrial
23 confinement days that is current?

1 CDC[MR. COOMBS]: We do not, Your Honor.
2 TC[MAJ FEIN]: No, ma'am.
3 MJ: Okay can we have that then ----
4 TC[MAJ FEIN]: We can have it for tomorrow morning.
5 MJ: ---- when we reconvene the court tomorrow morning? Is
6 there anything else that we need to address before we recess the
7 court?
8 CDC[MR. COOMBS]: No, Your Honor.
9 TC[MAJ FEIN]: No, ma'am.
10 MJ: Court is in recess until 0900 tomorrow morning.
11 **[The court-martial recessed at 1433, 19 August 2013.]**
12 **[END OF PAGE]**

1 [The court-martial was called to order at 0929, 20 August 2013.]

2 MJ: Court is called to order.

3 MAJ Fein, please account for the parties.

4 TC[MAJ FEIN]: Yes, ma'am. All parties when the court last
5 recessed are again present, with the following exceptions: MAJ Hurley
6 is absent, and CPT Overgaard is absent.

7 Also, ma'am, as of 0919 this morning, there were 21 members
8 of the media at the Media Operations Center, one stenographer, three
9 members of the media in the courtroom today in the panel box, and
10 seven spectators in the courtroom. There are no spectators in the
11 overflow trailer, although it will remain available throughout the
12 day.

13 MJ: Yesterday I asked the parties to calculate the number of
14 days of pretrial confinement credit and Article 13 -- in addition to
15 the 112 days of Article 13 credit that PFC Manning will be due. I
16 also had my assistant calculate this as well, and I came up with 1293
17 days as of today. Is that the parties' understanding?

18 TC[MAJ FEIN]: Yes, Your Honor.

19 CDC[MR. COOMBS]: Yes, ma'am.

20 MJ: Okay. I also received via email an authentication plan for
21 the transcript from the government. I believe the defense has also
22 viewed it, is that correct?

23 CDC[MR. COOMBS]: Yes, Your Honor.

1 MJ: All right. And that has been marked as Appellate Exhibit
2 665.

3 Does the government have anything to add to the record?

4 TC[MAJ FEIN]: No, ma'am. That has been marked as Appellate
5 Exhibit 665, and also ma'am, just for the record, Appellate Exhibit
6 664 is the defense's PowerPoint that was used during the sentencing
7 argument.

8 MJ: All right. The court has looked over Appellate Exhibit
9 665. What it basically does is it -- there is a lot of pages of the
10 transcript that will have to be authenticated by the parties in the
11 court, and this Appellate Exhibit 665 basically establishes a
12 procedure for that to be done expeditiously.

13 TC[MAJ FEIN]: I'm sorry, ma'am, there is one part to highlight
14 that the plan has, and that is that the portion of the closed
15 sessions takes the highest priority, and then the parties will start
16 with the beginning, the first 39(a) back in February 2012 and move
17 forward after the closed sessions during court-martial so those can
18 be released publicly once the classification reviews are done.

19 MJ: All right, thank you. Is there anything else we need to
20 address with respect to the authentication plan?

21 TC[MAJ FEIN]: No, ma'am.

22 CDC[MR. COOMBS]: No, Your Honor.

1 MJ: I also have a draft omnibus seal order which I asked the
2 government to do. Yesterday in the afternoon, in the evening, I went
3 through with the court reporters and the paralegals all of the
4 exhibits that have been entered into this case: Appellate Exhibits,
5 Prosecution Exhibits, and Defense Exhibits, to do two things: one, to
6 make sure that they were there; and then two, to see what has been
7 proposed for sealing, and why. And we have a couple of outstanding
8 issues with respect to a couple of the exhibits. The government is
9 going to get back to me on those. And I think the defense signed a
10 few of the exhibits that didn't have an actual signature on them, and
11 I believe that is all taken care of, right?

12 CDC[MR. COOMBS]: That is correct, Your Honor.

13 MJ: Okay. Any other issues with respect to the proposed
14 sealing order?

15 Defense, have you seen it?

16 CDC[MR. COOMBS]: We have, Your Honor, no issues.

17 MJ: Okay.

18 TC[MAJ FEIN]: No, ma'am.

19 MJ: All right. Is there anything else that we need to address
20 before I close the court for deliberations?

21 CDC[MR. COOMBS]: No, Your Honor.

22 TC[MAJ FEIN]: Just the plan for today, ma'am?

1 MJ: The court will close for deliberations and will reopen the
2 court at 12 o'clock. At that point, I will advise whether I need
3 further deliberations. If so, I will come back on the record at
4 1400. And the parties and I have scheduled an R.C.M. 802 conference
5 at 1600 today, or 4 o'clock, to discuss the outstanding issues with
6 respect to the sealing order. So at that point, you'll have further
7 clarity on how things will go. I will not announce the sentence
8 today; I will do that tomorrow morning, unless I need further time
9 for deliberation, but the earliest I will announce is tomorrow
10 morning.

11 Is there anything else that we need to address?

12 CDC[MR. COOMBS]: No, Your Honor.

13 TC[MAJ FEIN]: No, ma'am.

14 MJ: All right. Court is closed.

15 **[The court-martial closed at 0933, 20 August 2013.]**

16 **[The court-martial was called to order at 1158, 20 August 2013.]**

17 MJ: Court is called to order.

18 Let the record reflect all parties present when the court
19 last recessed are again present in court except, I believe it was MAJ
20 Fein at the government table?

21 ATC[CPT MORROW]: That's correct, Your Honor.

22 MJ: And let the record reflect Captain Morrow is now present
23 for the government.

1 Is there anything we need to address before I recess the
2 court?

3 CDC[MR. COOMBS]: No, Your Honor.

4 ATC[CPT MORROW]: No, Your Honor.

5 MJ: Once again, I am going to recess until 1400, or 2 o'clock
6 today. I am going to be continuing my deliberations at that point.

7 Government, I will be ready to announce the sentence
8 tomorrow. How much time does the government need to prepare for
9 that?

10 ATC[CPT MORROW]: 10 a.m. is fine, ma'am.

11 MJ: All right so at 10 a.m. tomorrow I will announce the
12 sentence. But I am coming back to deliberate further at 1400 today.
13 And I am meeting with the parties at 1600 today, or 4 o'clock. At
14 that point, I will meet -- once again, open the court, recess the
15 court, meet with the parties, and if I need further deliberations, I
16 will deliberate into the evening.

17 I would like to see both sides, counsel, for just a few
18 moments in chambers to talk about the seal issue.

19 Court is in recess until 1400.

20 **[The court-martial recessed at 1200, 20 August 2013.]**

21 **[The court-martial was called to order at 1358, 20 August 2013.]**

22 MJ: Court is called to order.

1 Let the record reflect the parties are not the same as they
2 were when the court last recessed.

3 Captain Morrow, please account for the parties.

4 ATC[CPT MORROW]: Yes, ma'am. Mr. Coombs is absent. All
5 parties present when the court last recessed are again present.

6 MJ: Thank you. Before I close the court, just briefly, I met
7 with counsel for a very brief R.C.M. 802 session after the last
8 recess, basically to give both sides a copy of the court's revised
9 sealing order. I had a draft from the government and made some
10 changes to it.

11 Does either side have any objection to that revised seal
12 order?

13 ATC[CPT MORROW]: No, Your Honor.

14 ADC[CPT TOOMAN]: No, ma'am.

15 MJ: And Government, also I have been going back to look at
16 issues we need to resolve before the end of the trial and came across
17 the Government Motion for Use of Alternative under M.R.E. 505(j)(2),
18 Appellate Exhibit DLVI [556] is the classified version--I'm sorry;
19 555 is the classified version. Appellate Exhibit DLVI [556] is the
20 unclassified version.

21 The government had four requests in that motion. I ruled
22 on three of them: 1, 2, and 4. And request number 3 still is still
23 outstanding, which is the original document and the alternative are

1 both classified based on the original classification authority's
2 determination. The alternative will be marked for classification at
3 the conclusion of trial. I order that both documents be sealed
4 pursuant to the court's omnibus sealing order at the conclusion of
5 the trial.

6 Does the defense have any objection to that or are
7 you--would you rather address that at 1600?

8 ADC[CPT TOOMAN]: If we could address that at 1600, ma'am,
9 yes.

10 MJ: All right. And Government, please be prepared to address
11 that as well.

12 ATC[CPT MORROW]: Yes, ma'am.

13 MJ: Is there anything else we need to address at this time
14 before I close the court again?

15 ATC[CPT MORROW]: No, ma'am.

16 ADC[CPT TOOMAN]: No, ma'am.

17 MJ: All right. Court is closed.

18 **[The court-martial closed at 1400, 20 August 2013.]**

19 **[The court-martial opened at 1600, 20 August 2013.]**

20 MJ: Court is called to order.

21 Captain Morrow, please account the parties.

1 ATC[CPT MORROW]: All parties present when the court last
2 recessed are again present with the following exception: CPT Tooman
3 is absent, Mr. Coombs is present.

4 MJ: Are the parties prepared to discuss the omnibus seal order
5 and the exhibits, the remaining issues?

6 CDC[MR. COOMBS]: Yes, Your Honor.

7 ATC[CPT MORROW]: Your Honor, if I could, I would like to
8 check in and see if MAJ Fein is close to being on his way back. He
9 might be better suited to answer any questions from the court.

10 MJ: Why don't we do this: let's -- I'm going to close the court
11 again, and go back into deliberations, and you all let me know when
12 you reach MAJ Fein, and I will continue to deliberate. If you don't
13 tell me by 1700, give me a status update, all right?

14 ATC[CPT MORROW]: Yes, ma'am.

15 MJ: Court is closed.

16 **[The court-martial closed at 1601, 20 August 2013.]**

17 **[The court-martial opened at 1725, 20 August 2013.]**

18 MJ: Court is called to order.

19 Let the record reflect all parties present when the court
20 last recessed are again present in court.

21 The seal order, are there any issues that we have left to
22 address?

23 CDC[MR. COOMBS]: Nothing from the defense, Your Honor.

1 ATC[CPT MORROW]: No, Your Honor. We are not seeking to have
2 those, the two exhibits ----
3 MJ: Appellate Exhibit 512 ----
4 ATC[CPT MORROW]: Yes, ma'am, only the ----
5 MJ: Enclosure 1, tabs 4 and 5?
6 ATC[MAJ FEIN]: Yes, ma'am, that is correct.
7 MJ: Okay, so you are not?
8 ATC[CPT MORROW]: We are not.
9 MJ: And the other issue I granted your motion on?
10 ATC[CPT MORROW]: Yes, ma'am.
11 MJ: Okay, I noticed that's in the new index of exhibits.
12 Defense, have you had an opportunity to see the index of
13 exhibits?
14 CDC[MR. COOMBS]: Yes, Your Honor.
15 MJ: I'm going to ask the paralegals as soon as I recess the
16 court to come back and work with me. There's a couple--we spent a
17 great deal of time last night going through the exhibits and
18 numbering them, and it looks like there are still a couple of
19 discrepancies in there that I just need to talk about with them. You
20 are both invited to stay if you want to, but it is very
21 administrative and nothing substantive.
22 Is there anything else that we need to address before I
23 announce sentence and we adjourn the court tomorrow?

1 ATC[CPT MORROW]: No, Your Honor.

2 CDC[MR. COOMBS]: No, Your Honor.

3 MJ: Well, then, court is in recess until 10 o'clock tomorrow
4 morning.

5 **[The court-martial closed at 1727, 20 August 2013.]**

6 **[END OF PAGE]**

1 [The court-martial opened at 1016, 21 August 2013.]

2 MJ: Court is called to order.

3 MAJ Fein, please account for the parties.

4 TC[MAJ FEIN]: Yes, ma'am. All parties when the court last
5 recessed are again present, with the following exceptions: MAJ Fein,
6 CPT Overgaard, MAJ Hurley and CPT Tooman are present. Also, Your
7 Honor, as of 1010 this morning, there are 75 members of the media at
8 the Media Operations Center; there is one stenographer; there are 12
9 members of the media in the courtroom panel box; 45 spectators in the
10 courtroom; 30 spectators in the overflow trailer; and the post
11 theater, although available, is not currently being used.

12 MJ: Thank you. The court has finalized its omnibus sealing
13 order and attached index of exhibits.

14 Have both sides had an opportunity to review this and are
15 there any objections?

16 CDC[MR. COOMBS]: Defense has reviewed it; no objections, Your
17 Honor.

18 TC[MAJ FEIN]: Same for the United States, Your Honor.

19 MJ: All right. It will be marked as the next Appellate Exhibit
20 in line.

21 Members of the Gallery, I will now announce the sentence.
22 I ask that you maintain decorum as you have throughout these
23 proceedings. If there is any outburst or disturbing conduct, I will

SENTENCE

1 stop. And if I find there has been a disturbance, I will order the
2 disturbing party to be escorted out of the courtroom by security.

3 First of all, is there anything we need to address before
4 we adjourn the court, other than sentence?

5 TC[MAJ FEIN]: No, ma'am.

6 CDC[MR. COOMBS]: No, ma'am.

7 MJ: Accused and Counsel, please rise.

8 [The accused and his defense counsel did as directed.]

9 MJ: PFC Bradley E. Manning, this court sentences you:

10 **To be reduced to the grade of Private E1;**
11 **To forfeit all pay and allowances;**
12 **To be confined for 35 years; and**
13 **To be dishonorably discharged from the service.**

14 Please be seated.

15 [The accused and his defense counsel did as directed.]

16 MJ: PFC Manning will be credited with 1182 days of pretrial
17 confinement, and 112 days of Article 13 credit, for a total of 1294
18 days of sentence credit.

19 This court is adjourned.

20 [The court-martial adjourned at 1017, 21 August 2013.]

21 [END OF PAGE]

INSTRUCTIONS FOR PREPARING AND ARRANGING RECORD OF TRIAL

USE OF FORM - Use this form and MCM, 1984, Appendix 14, will be used by the trial counsel and the reporter as a guide to the preparation of the record of trial in general and special court-martial cases in which a verbatim record is prepared. Air Force uses this form and departmental instructions as a guide to the preparation of the record of trial in general and special court-martial cases in which a summarized record is authorized.

Army and Navy use DD Form 491 for records of trial in general and special court-martial cases in which a summarized record is authorized. Inapplicable words of the printed text will be deleted.

COPIES - See MCM, 1984, RCM 1103(g). The convening authority may direct the preparation of additional copies.

ARRANGEMENT - When forwarded to the appropriate Judge Advocate General or for judge advocate review pursuant to Article 64(a), the record will be arranged and bound with allied papers in the sequence indicated below. Trial counsel is responsible for arranging the record as indicated, except that items 6, 7, and 15e will be inserted by the convening or reviewing authority, as appropriate, and items 10 and 14 will be inserted by either trial counsel or the convening or reviewing authority, whichever has custody of them.

1. Front cover and inside front cover (chronology sheet) of DD Form 490.
2. Judge advocate's review pursuant to Article 64(a), if any.
3. Request of accused for appellate defense counsel, or waiver/withdrawal of appellate rights, if applicable.
4. Briefs of counsel submitted after trial, if any (Article 38(c)).
5. DD Form 494, "Court-Martial Data Sheet."
6. Court-martial orders promulgating the result of trial as to each accused, in 10 copies when the record is verbatim and in 4 copies when it is summarized.
7. When required, signed recommendation of staff judge advocate or legal officer, in duplicate, together with all clemency papers, including clemency recommendations by court members.

8. Matters submitted by the accused pursuant to Article 60 (MCM, 1984, RCM 1105).

9. DD Form 458, "Charge Sheet" (unless included at the point of arraignment in the record).

10. Congressional inquiries and replies, if any.

11. DD Form 457, "Investigating Officer's Report," pursuant to Article 32, if such investigation was conducted, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.

12. Advice of staff judge advocate or legal officer, when prepared pursuant to Article 34 or otherwise.

13. Requests by counsel and action of the convening authority taken thereon (e.g., requests concerning delay, witnesses and depositions).

14. Records of former trials.

15. Record of trial in the following order:

- a. Errata sheet, if any.
- b. Index sheet with reverse side containing receipt of accused or defense counsel for copy of record or certificate in lieu of receipt.
- c. Record of proceedings in court, including Article 39(a) sessions, if any.
- d. Authentication sheet, followed by certificate of correction, if any.
- e. Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.
- f. Exhibits admitted in evidence.
- g. Exhibits not received in evidence. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.
- h. Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel submitted at trial.